

PROCEEDINGS AND DEBATES
OF THE GENERAL ASSEMBLY
OF PENNSYLVANIA, 1787.

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Pennsylvania. General
Assembly.

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PROCEEDINGS

A N D

DEBATES

O F T H E

GENERAL ASSEMBLY

O F

P E N N S Y L V A N I A,

of 1787.

AS TAKEN IN SHORT-HAND BY THOMAS LLOYD.

VOLUME THE SECOND.

P H I L A D E L P H I A :

PRINTED BY JOSEPH JAMES, IN CHESNUT-STREET.

M,DCC,LXXXVII,

87

J. B. Smith
1787
V. 2
I do certify, that Thomas Lloyd
has, on the thirty-first day of October,
1787, entered in the Prothonotary's
Office of the County of Philadelphia,
a Volume intituled "Proceedings and
" Debates of the General Assembly
" of Pennsylvania, as taken in
" Short-Hand by Thomas Lloyd,
" Volume the second," agreeably to Act
of Assembly.

J. B. Smith, Proth. Phil. Co.

Proceedings and Debates

OF THE

Twelfth GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA;

WHICH COMMENCED AT PHILADELPHIA, ON MONDAY, THE
TWENTY SECOND DAY OF OCTOBER, IN THE YEAR
OF OUR LORD, ONE THOUSAND, SEVEN
HUNDRED AND EIGHTY SEVEN,

MONDAY, October 22, 1787. P. M.

Being the day appointed by the Constitution of this State for the Meeting of the General Assembly, a Number of Gentlemen elected as Representatives, to serve for the ensuing Year, met accordingly, but not being a quorum,

Adjourned until three o' clock to-morrow.

TUESDAY, October 23. P. M.

A number of Gentlemen met pursuant to adjournment, but not being a quorum—Adjourned until three o' clock tomorrow afternoon.

WEDNESDAY, October. 24. P. M.

Forty Seven Gentlemen met, and being a quorum,

On motion,

The returns of the Elections held in the City of Philadelphia, and in the Counties of Philadelphia, Bucks, Chester, Lancaster, York, Cumberland, Berks, Northampton, Bedford, Westmoreland, Franklin, Montgomery, Dauphin, Luzerne and Huntingdon, were read, by which it appeared that the following Gentlemen were returned as Representatives, from the said City and Counties, respectively, for the ensuing Year. Viz. †

For

† Those printed in *Italic* are the *seceding Members* of the late House. Those with a star prefixed are new Members. These distinctions will be carried into the returns from the other Counties when they are presented.—

For the City of PHILADELPHIA.

George Clymer,
 Thomas Fitzsimons,
 Jacob Hiltzheimer,
 * William Lewis,
 William Will,

For the County of PHILADELPHIA.

Thomas Mifflin,
 William Robinson Junr.
 John Salter,
 George Logan,
 * Richard Peters,

For the County of BUCKS.

Gerardus Wynkoop,
 John Chapman,
 Samuel Foulke,
 Valentine Upp,

For the County of CHESTER.

Robert Ralston,
 James Moore,
 Richard Thomas,
 Samuel Evans,
 Richard Willing,
 Townsend Whelen,

For the County of LANCASTER.

Alexander Lowrey,
 Adam Hubley,
 Joseph Work,
 James Clemson,
 * Jacob Erb,
 * John Hopkins,

For the County of YORK.

Michael Schmyser,
 * William Mitchell,
 David M^r Lellan,
 Joseph Lilly,
 * Joseph Reed,
 * Thomas Clingan,

For the County of CUMBERLAND.

David Mitchell,
 Thomas Beale,
 Thomas Kennedy,
 * John Oliver,

For the County of BERKS.

Joseph Heister,
 Gabriel Heister,
 * Charles Biddle,
 David Davis,
 * Joseph Sands,

For the Co. of NORTHAMPTON.

Peter Trexler Junr.
 Thomas Mawhorter,
 Peter Burkhalter,
 * Peter Ealer,

For the County of BEDFORD.

John Piper,
 * Jacob Saylor, }
 * Abraham Cable, } ||

For the County of WESTMORELAND

William Findley, }
 James Barr, }
 * John Irvine, } For

|| These two gentlemen are equal in votes, and the County sends but two members.

‡ This return is said to be signed by a part of the judges, and has the following subjoined.

“ N. B. We do also certify, from the information we have received of Jacob Cattleman (who is one of the judges in the district of Pittsburg, and who has refused to sign this return) that several persons voted in that district who did not reside there. And also from information of Hugh Martin, and Michael Hulsingale Esquires, that there were several persons who voted in the district of

For the County of FRANKLIN. For the County DAUPHIN,

* James M' Lene,	<i>Jacob Miley,</i>
<i>James M' Calmont,</i>	<i>Robert Clark,</i>
	John Carfon,

For the County of MONTGOMERY. For the County of LUZERNE.

Jacob Riffe,	* John Paul Schott,
* Robert Lollar,	For the County HUNTINGDON.
* Benjamin Rittenhouse,	* Hugh Davison.
* Peter Richards,	

N. B. No returns have been received from the County of Northumberland, Washington, and Fayette.

The House proceeded to the appointment of a Speaker, and on casting up the ballots, it appeared, *the Honourable* Mr. THOMAS MIFFLIN, was *unanimously* elected to that important station, whereupon, he took the necessary oaths, and made the requisite declaration.—And being seated in the Chair,

The members present were severally qualified, agreeable to the directions of the Constitution.

The House proceeded to elect their Clerk, and an Assistant Clerk, and on casting up the ballots, it appeared that *Peter Z. Lloyd* Esq. was *unanimously* chosen Clerk, and *Jacob Shallus* Esq. Assistant Clerk.

It was moved, and seconded, to adjourn.

Mr. *Lollar* hoped before the House adjourned, a Committee would be appointed to wait on Council, and inform them the House was organized, and ready to receive such business as they would please to lay before them.

The motion to adjourn being persisted in, it was agreed to, and the house adjourned, to meet to-morrow morning at half past nine o'clock.

THURSDAY *October 25*, A. M.

The House met pursuant to adjournment.

Mr. Fitzimons presented a petition, from James Martin, praying the House to confer on him the Office of Serjeant at Arms, which being read, The House proceeded to that appointment, and on casting up the Ballots, there appeared, for

James Martin	34.
Nicholas Weaver	14.

Whereupon Mr. James Martin was declared duly elected, and Mr. Joseph Fry

“ Greensburgh, who attended the courts but did not reside within the district,—And
 “ also from the information of Charles Campble Esquire, that there were three
 “ persons who voted in the district of North Connemaugh, who did not reside with-
 “ in the same. Witness our hands and seals October 11th. 1787.

§ The words in Italic, are struck through with a pen, as if erased.

Fry was appointed Door-keeper.

The return of Members for the County of Washington was read, as follows,

*John M' Dowell,
Alexander Wright,
John Flammiken,
James Allijon,*

A Letter from Charles Biddle was read, wherein he declined serving as a Member for the County of Berks, On motion and by special order, the same was read a second time,—Whereupon,

Resolved, that the resignation of Charles Biddle be accepted, and the Speaker be authorized to issue his writ, for an Election, to supply the vacancy.

A Committee, consisting of Messrs. Willing, Lollar, and Schott, was appointed to wait on Council, and inform them the House was organized, and ready to receive such communications, as that body might be disposed to make.

Mr. *Kennedy* presented a petition from sixty two inhabitants of the County of Dauphin, alledging some undue and improper practices in one of the election districts. In support of which allegation, they transmitted the affidavit of Michael Zimmerman and others, of Lebanon township.

Ordered to lie on the table.

Mr. *Lollar* reported verbally, from the committee appointed to wait on Council, that they had informed that body, of the organization of the house, and received in answer, that a message should be forwarded to-morrow morning.

On motion of Mr. Findley—Messrs Fitzsimons, Thomas and McLeane, were appointed a Committee to bring forward the unfinished business of the late house, and such other as they judged proper, to lay before the present house.

Mr. *Fitzsimons* was of opinion that the investigation of the revenue of the state was an important business, particularly at the present alarming crisis: Wherefore he hoped the house would turn their attention to it, as speedily as possible.

He had observed, ever since he had the honor of being a representative in the General Assembly of this state, a great difficulty in obtaining early information, from the Officers in that department,—it usually was late in the session before it was procured, by which means the subject could not receive that attention it merited, and he wished it to have, to remedy which, he hoped the house would now proceed to the appointment of a Committee of ways and means, and thereby discharge that part of their duty, the occasion demanded: He therefore moved for the appointment of a grand committee.

Mr.

Mr. Findley observed some small difficulty in appointing the Committee so soon in the session.—That we have experienced the inconvenience mentioned by the worthy member from the city, would be readily granted, but there are now some Counties totally unrepresented, and others but thinly represented, for which reason there must be an impropriety in the appointment at present, otherwise it must be readily agreed to; upon the whole, he did not wish it done, at least, on this day, perhaps these objections might not exist to morrow.

Mr. Fitzsimons saw nothing to prevent the appointment *now*, the only business the Committee could enter on, would be to call on the Officers, and direct them to prepare the necessary statement, for their early information. If any County was unrepresented at present, surely a gentleman could be added when the members came down from such County. This cannot be deemed a sufficient reason for delay, when there never was, perhaps, a greater occasion for the exertions of the Legislature, in this particular.

Mr. Findley apprehended the force of his objection was not understood, it was not that some Counties were unrepresented, but others were so partially so, as not to have a choice in their members, some for example had but one member, who of course must be nominated and appointed, he thought this placed some gentlemen in a disagreeable situation.

He would not insist upon his opposition, but had only stated these reasons to the house.

Mr. M'Lene added a few words, which were not heard.

The motion was put and carried; whereupon the following Gentlemen were appointed members of the committee of ways and means;

CITY of PHILADELPHIA.
COUNTY of PHILADELPHIA.
BUCKS.
CHESTER.
LANCASTER.
YORK.
CUMBERLAND.
BERKS.
NORTHAMPTON.
BEDFORD.
WESTMORELAND.
WASHINGTON.
FRANKLIN.
MONTGOMERY.
DAUPHIN.
LUZERNE.
HUNTINGDON.

Mr. Fitzsimons,
Mr. Robinson,
Mr. Wynkoop,
Mr. Willing,
Mr. Hubley,
Mr. M'Lellan,
Mr. Kennedy,
Mr. G. Heister,
Mr. Burkhalter,
Mr. Piper,
Mr. Findley,
Mr. M'Dowel,
Mr. M'Lene,
Mr. Lollar,
Mr. Miley,
Mr. Schott,
Mr. Davison,

Messrs Clymer, Will, and Rittenhouse, were appointed a Committee

mittee to prepare rules and regulations for conducting the business of the House, and in the interim, ordered, that the rules of the late House be adopted.

Messrs. Logan, Willing, Hubley, Kennedy, and Lollar, are appointed a Committee of Accounts.

Messrs. Robinson, Evans and Piper, are appointed a Committee to superintend the Printing of the Laws and Minutes.

Mr. Lollar is appointed to receive fines.

Mr. *Fitzsimons* called for the reading of the return from Westmoreland County, as he apprehended it was not altogether properly certified, and he enquired for information, whether some other Statement was not expected.

Mr. *Findley* would give such information, as he was possessed of, he had seen a great number of the judges on this business, and they allowed, the people had voted in several districts where they did not reside, but this was not matter of much surprize, considering the extent of the Western Counties, however he apprehended this did not invalidate an election; in the district of Connemaugh, the judges had received three votes in this manner, and were apprized of the impropriety, wherefore they retained them apart, until the judges met at the Court House, when it was agreed to receive them, as no doubt could be entertained, but what those persons had a right to vote, as citizens of the state, unavoidably detained from their place of residence, similar conduct has been pursued in other Counties, and it was not deemed improper. One of the Judges, to be sure, had insisted on a note being made of this transaction, supposing it necessary, to minute every occurrence, from the oath which he had taken.—This was what he had learned from the Prothonotary Mr. Huffnagle, and the Judges who delivered him the Return to bring to the House.—He believes no other special information could be obtained, nor would any petitions or complaints against the Election come forward.—This he declared as his opinion; such things *possibly* may be introduced, contrary to his expectation, but the *probability* is, that there will not.

Mr. G. *Clymer* observed, that when returns are read on the first meeting of the House, they are passed over as a matter of course, but this appeared to him *vitiating on the face of it*, the Judges had also certified some improprieties which might be a proper subject of inquiry, when the necessary information was received.—At present he supposed nothing more was requisite than to let it remain on the table.

Whereupon no Order was specially taken on this business for the present.

On motion resolved that Tuesday next be assigned for the appointment of suitable persons to print the laws and Minutes of the present House.

Ordered

Ordered that the notice thereof be given in one of the public papers.

The several members who now appeared for the first time in the House, were also qualified agreeable to the directions of the Constitution.

Adjourned until to-morrow.

FRIDAY, *October* 26, A. M.

The House met pursuant to adjournment.

Such Members as appeared now for the first time subscribed the necessary oaths and declaration.

Petitions from James Young and Charles Buzelot, insolvent debtors, confined in the Jail of this City, were read and ordered to lie on the table.

The Return of Representatives, was received from the County of Fayette, by which it appeared, that

*Theophilus Philips, and
John Gilchrist,*

are returned duly elected.

Mr. G. Clymer called for the reading of the following resolution, agreed to by the late House,

Resolved that it be recommended to the succeeding House of Assembly, to make the same allowance to the attending Members of the Convention, as is made to the Members of the General Assembly, and also to provide for the extraordinary expences which may be incurred by holding the said elections.

This met with some opposition from Mr. M' Lene, who thought the House ought to wait until the business should be introduced by the expected message from Council.

But the Resolution was read, and Messrs. G. Clymer, Lollar and Schott, were appointed to bring in a bill conformable to its tenor.

Mr. Fitzsimons presented the following report.

“The Committee appointed to report the unfinished business of the former House, find, the following bills and reports, recommended by a former Committee”.

1 A supplement to the Act for erecting the southern Suburbs into the district of Southwark.

2 A bill for disposing of the residue of the donation Lands.

3 A bill for regulating Auctions and Vendues.

4 A bill to incorporate the subscribers to the plan for erecting a permanent bridge over Schuylkill.

5 A bill to enable the Commissioners of Chester County to sell and convey a certain lot &c.

6 A report on the petition of non resident owners of land in Luzerne County. ¶

All

All of which they recommended to the attention of the House, and that the report of the Committee on the transcript of taxes, § be referred to the Committee on ways and means”.

The 1st. bill was committed to Messrs. Robinson, Logan and Piper.

The 2nd. to Messrs. Findley, M' Dowel and Rittenhouse.

The 3d. — to Messrs. Fitzsimons, Will, Peters, Wynkoop and M' Lene.

The 4th. — was postponed.

The 5th. — to the Members from Chester County.

It was moved, by Mr. M' Lene, to refer the report on the Luzerne business to a grand committee.

Mr. G. Clymer objected to this motion because it was the business of the state generally, and not a subject in which the counties were individually concerned.

Mr. M' Lene did not deny the gentleman's position, but he conceived the members who might be appointed, were representatives of the state, and not the representatives of particular Counties.

Mr. Clymer insisted that grand Committee's were the representatives of Counties, or why are they appointed from each County, in preference of being selected from the state at large.

Mr. Fitzsimons had but one objection to a Grand Committee, and that was the delay necessarily occasioned by having so large a number to transact business,—Every Gentleman must be sensible of the difficulty with which Committee's are collected, and on the present occasion, construct your Committee how you may, the same Members will be on several others, which will encrease the difficulty, for it is impossible to attend both at the same time; indeed he had frequently observed, that business consigned to a large Committee, was done by a few of its members or not at all, but if Gentlemen think that a grand Committee will speedily report in the present instance, he would rest satisfied with the appointment.

The motion for a grand Committee was negatived, and a Committee formed of Messrs. Clymer, Wynkoop, Evans, Lowry, M' Lene, Kennedy and G. Heister.

Mr. M' Lene begged to be excused from serving on this Committee, as he was against the measure altogether.

The House declined to comply with his request.

The report of the Committee on the transcript of taxes, was referred to the Committee on ways and means.

The assistant Clerk, was sent to enquire of the Honourable Supreme Executive Council, at what time they would please to forward their message, and was informed, it could not be ready to lay before the House until one o'clock. No other business presenting,

The House adjourned, to meet to-morrow morning at half past nine o'clock.

SAT-

SATURDAY, October 27, A. M.

The House met pursuant to adjournment.

After reading over the minutes of yesterday,

Mr. *Fitzsimons* presented a petition from the Committee of the subscribers, for building a permanent bridge over Schuylkill, praying leave to bring in a bill to incorporate the subscribers.

Ordered to lie on the table.

Colonel *Hubley*, presented a petition from Messrs. Lahn and Albright, praying to be appointed printers of the laws and minutes in the German Language.

Mr. *Logan* presented a similar one from Jacob Billmeyer.

Ordered to lie on the table.

Mr. *Fitzsimons* presented the following petition :

To the Representatives of the freemen of the Commonwealth of Pennsylvania.

The petition of Richard Wells and John Clifford respectfully sheweth.

That a petition was presented to the late House of Assembly, on the 10th of September, praying, that the share of the Ship Anna, forfeited to the state, by virtue of an act passed in March last, might be relinquished in favor of the late owners, but it being late in the session, and more important business taking up the time of the House, the Committee appointed on the said petition did not report ; your petitions, therefore, respectfully hope, the present House will please to take up the said petition, and grant that relief to the sufferers, which the peculiar severity of the case may be thought to require ; for however it may be contended, in courts of justice, that owners are liable for the misconduct of their officers, and should therefore be cautious whom they employ, yet no such law existing at the time of the ship's leaving America, the owners had not the danger in contemplation, when their officers were appointed.

Richard Wells,
John Clifford,

Philadelphia, October 26, 1787.

Orderd to lie on the table.

Mr. *Sands* presented the petition of Mary Biorne, stating her fruitless attempt by law, to obtain an estate which she claims as her property, and praying relief of the House.

Ordered to lie on the table.

Mr. *Moore* presented from the Committee, a bill to enable certain Commissioners to sell and convey a lot, in Chester County, and for other purposes therein mentioned.

Ordered to lie on the table.

On motion and by special order, The petition from the Committee of the subscribers to the permanent bridge, was read a second time—Ordered, that they have leave to bring in a bill, agreeable to the prayer of their petition.

The petition of Mary Bierne was also read a second time.

Mr. *Peters* was of opinion the subject matter contained in the petition, could not come with propriety before the Legislature.

Mr. *Wykes* entertained the same sentiment; as did also Mr. *Lollar*.

Mr. *Peters* moved that the petition of Mary Bierne be dismissed.

Mr. *McLure* wished to soften the expression, and say she has leave to withdraw her petition.

Mr. *Peters* cheerfully concurred, as his object was only to rid the House of the business.

Whereupon, resolved, that Mary Bierne have leave to withdraw her petition.

The petition of Richard Wells, was read a second time, and it was moved and seconded to commit.

Mr. *Findly* was against committing; he had been on a Committee of the last House on this business, and they had agreed it did not come before the House. Being one of the Committee, he was enabled to understand this business better than most other gentlemen, who had not the same opportunity. But it might be observed, from the face of the petition, and from the relation, that it was a business which could not come before the House. The petitioners inform you, that Council have decided on a similar application of theirs, and that they refused their prayer by a majority of one vote. What, then, has the House to do with it? are we to examine whether Council did right or wrong, by their decision, or whether one is a sufficient majority, to determine the vote of that body?

It is clear, if we take up business, after it has been decided upon in the Executive department, that we shall invite a great deal. But what right has the House to go into any enquiry in such cases? none. They are as supreme in the Executive department, as we are in the Legislative, and there lies no appeal from them to us. For which reason, it will be proper that the petitioners have leave to withdraw their petition.

Mr. *Peters* was not satisfied by the arguments of the gentleman from Westmoreland, that there was an impropriety in committing; he had a great respect for Council, but he did not know from any thing that appeared on the face of the petition, that the gentleman's observation of its being without the province of the House to notice it, was well founded, nor was it derogatory to the respect due Council, to hear the petitioners—Council might, perhaps, have ordered the petition, when before them, to be dismissed, because they might doubt if their authority extended to giving away the public monies, or property of the state; if so, and they declined complying with the request of the petitioners, it can be no reason, why the Legislature should not attend to it—if it be found a case so extremely hard, on account of the rigor of our laws, no doubt can be entertained of the power of the house to remedy the evil. In all nations this power is reserved. In England it is delegated to a board of commissioners, who have full authority to mitigate the rigor of the maritime law: If such is given to Council

Council, still that body might suppose, after the confiscation of the property, or collection of the revenue, it was beyond their reach, and that they could not return the one or the other. But however this might be, there could not be any impropriety in admitting the petition to go to a Committee; it was ungenerous to attempt to stop it in the first stage—nor did he think it proper to refuse; he would be the last person in the house to interfere improperly, with either the judicial, or executive branches of the government, but this he looked upon to be totally distinct from either. If the gentlemen's case was found to be a hard one, and that the law operated as a grievance, it was in the power of *the Assembly only* to furnish the remedy, and this could not be devised, without first determining on the disease. The House would therefore certainly think it proper to commit, for the purpose of enquiry.

Mr. *Findly* agreed with the gentleman from the County in his general sentiments, and apprehended if the House made a law, which was injurious to the people, that they ought to repeal it, though many inconveniences might arise by such repeal.—But there was a material difference between the power of the House to repeal its own laws and rescinding what had been done, in the execution of the law.—Certainly too the power of remitting fines, did not lay with the House.—Though the power of disposing of the public money of the state does, yet the House would hardly be induced to part with this, wantonly, to men who never did service for it.

Council, the gentleman says, would not go into the business, because they had no right to give away the public money; that I apprehend was not the reason. I suppose they were conscious of an impropriety in remitting the fine, for they must have been certain on the question of right, they knew they had this right by the constitution; and it appears by this vote, that they exercised the right by judging of the propriety of remitting the penalty. If the House was to attend to all the complaints, arising from dissatisfaction with the decision of Council, on every refusal to remit fines—they would have business enough; or if the laws are to be altered on every complaint of their severity, then it would have to be frequently done indeed, for no person suffering under them but what complains.

The question is not so much the power of remitting, as the propriety of admitting such business before us at all; shall our time be taken up with attending to things evidently improper from the very face of them?—Shall we hold out encouragement, for people to expect from us, an alteration of the decisions of Council: Shall we set up for the court of appeals from the executive and judicial branches? no: these are principles which I am ever against.—The power of the Council to remit, is another question; but I believe it is certainly understood they have the power, though they did not see it right to exercise it in behalf of these persons. I repeat it again, the repeal of the law lies with us, but we have it not in our power

or to rescind the execution. If it is a hardship, or been executed too rigorously, it does not lay with us to apply the remedy.

Mr. *Robinson*. The gentleman tells us that it appears improper to commit the Petition, from its face, and from his knowledge of the business; this conclusion he draws from the opportunity he tells you that he has had, to study the subject when on the Committee, to whom it was referred, by the late House. Perhaps we all might be of his opinion, if we had the same advantage of attending to it particularly. I don't recollect either that he discovered any thing of this impropriety, when the petition came before the late House. I believe he did not then contend he had discovered any thing on the face of it which rendered the commitment improper; on the contrary, he was willing to have it committed, as he went on the Committee to whom it was referred.

With respect to the question, whether Council have a right to remit fines and penalties after collection or not—I think it a matter of indifference, so far as connected with the present subject; nor do I wish to go at this time into the merits of the case, but sure it can't be a disputable point here, that the House have a power to dispose of the monies of the state. It is certainly in the power of the House to grant any person, who has been injured by the operation of a law, a sum which justice to his case may require. It cannot be a disputed point, either that the power of the House is adequate to remedy the petitioners; if it should be found on enquiry that it will be proper so to do, the only question therefore is, whether the present occasion is a proper one, for this interference of the Legislature?—And this can be better determined by deliberation and investigation, than in a hurry and on the moment it is applied for.

Mr. *Peters* could not see upon what principle the repeal of a too rigorous law could originate, unless the rigorous execution was first established, so as to rouse the attention of the Legislature, if this case may produce that effect, where is the harm in proceeding to the investigation—The Committee are not confined to report particularly on this occasion, if on enquiry and discussion, they find our navigation laws too oppressive, they will bring it before the House. I am as much against partial interference as the gentleman from Westmoreland, and would, rather, that a person should abide by the inconvenience, than establish a precedent, which might in future embarrass the decisions of the executive, or judicial departments—But committing this petition, can have no such effect, nor without it, can the House discover the propriety of altering a law, whose execution occasions complaint, and it is in the power of the House *only* to remedy the defect—The opposition to commitment does not seem fair or able, and this is a subject of more importance than a thousand others that are referred to Committees

Mr. *Lynslop* spoke also on this occasion, but was not heard.

Mr.

Mr. Findley would explain that part of his conduct, which the member from the County had remarked upon, this was, his not objecting to the commitment on a former occasion. He owned he might have mistaken the reasons, for which gentlemen were desirous of having the petition now committed, he understood it was with a design to relieve the petitioners, by remitting or returning the penalty. But by the reasoning of the gentleman on the other side of the chair (Mr. Peters) it appears, that it is with an intent to lay the foundation for repealing the impost laws, and I agree with him, before that can be done, it must appear to the House wrong, or oppressive in its operation.

Now if this is the object, and it is necessary to take a review of all revenue laws, and repeal those that are complained of, the commitment may not be improper.

But if we are to repeal, or alter the *execution* of a law, it is a business not belonging to the legislature—if our laws operate as a hardship on the community, it may be some foundation for repeal, but this would go too far, for every hardship would produce an application.—Because some men have been hanged, or whipped, under our penal laws, is that a reason for their repeal? or is a man who suffered under any of our laws to be relieved by an *ex post facto* one? If this precedent is once established, no doubt but the House would have business enough.

A gentleman (Mr. Robinson) has mentioned the power of the House to dispose of all public monies—that such power lies with the House is true, but I can never conceive, when a man has been punished for a breach of the law by fine, that it is in the province of the House to restore it; and if the gentleman means to do it by any indirect method, it is blamable, it would be better to go boldly into it, and say our laws have been improperly executed, and we will correct the abuse, by assuming the right of deciding on such execution—we will go into the enquiry, also, of the conduct of our courts of justice, and blend in ourselves the exercise of the legislative, executive and judicial powers.

Mr. Fitzsimons thought that the petitions of the people ought to be attended to, it was their right to be heard, and clearly defined to be so in the constitution.

The regard which is due to our constituents, should certainly induce us at least to take the pains of enquiring into their complaint—The gentleman from Westmoreland insists on its dismissal, because the application appears improper on the face of the petition, and adds that Council *only* have authority to decide in this case. The gentleman will remember, this law was passed in the late spring, and was confessedly a matter of experiment; he also knows, that these persons are the first who have suffered under it, and they think their sufferings unmerited.—They applied to that body, whom the gentleman insists was adequate to grant them relief—

relief, which was not obtained—Application is now made to us, and we are solicited to enquire whether the laws operated unjustly against these people, and whether, if that injustice is made appear, it will not be proper to correct its severity.

Notwithstanding the gentleman contends this subject is foreign to our department, yet I am very sure it is difficult to draw the line to determine what is in the power of the House, and what is not. If when the report is brought before us, any thing should be offered on this head, it will be time enough to go into the discussion—but to me it looks a little extraordinary, and pointed too, that such opposition should take place on the commitment. But I hope the House will agree on the propriety of enquiring into the complaints of our constituents, and in the present case approve of the motion for commitment.

Mr. M' Lane hoped the House would not agree to commit—for he could not conceive how it becomes a subject of enquiry in this case, more than in any other, to decide on what the courts of justice or Council have done: It is quite out of propriety for this House to pass an opinion, upon the decisions in either of those places, of the execution of the laws of Pennsylvania.

This business has been carefully enquired into before the court of common pleas, and learned counsel in plenty were engaged on both sides;—the business has been also before council, who undoubtedly have power to remit fines by the express words of the Constitution, and will any gentleman rise and say that this House have such power? I believe they will not.

The gentleman on the left hand of the chair (Mr. Peters) thinks it is a rigorous law, but I remember well to hear the judge of the court of common pleas declare it was not. He promised that it was not a severe law, that is, considered as an impost law, and not so much so as in other nations, even the English, but the proceedings of a court of justice, which determine against any person, are deemed hard by the sufferer, whether his loss be occasioned by neglect, or disobedience.—Another gentleman (Mr. Robinson) on the other side of the House, holds, tho' the House cannot remit fines, yet they can dispose of the public money, and though we don't remit, yet we can bestow; this, sir, amounts to the same thing, the act is in fact the same; and when we agree to receive petitions of this kind, and to alter the decisions of council, certainly no man who has suffered the loss of his property, and does not meet relief in our courts of justice, or by the interference of Council, or who is to be punished, but will apply to us, if he finds here a pardoning shop. No one will regard what is done up stairs (*alluding to the Council chamber*) if he can find a remitting shop below. Every one will certainly apply here, and that will be a great number no doubt. If we want business this will be a ready way to draw it to us—but surely the gentleman must

must see the impropriety of the application; for let the art of man give it what cast they will, it is certain the House have no power to remit a fine—and let redress be furnished by us, it is still the *same ffs*, dress it which way you please, and it is a business with which the Legislature has nothing to do, wherefore the House will pursue the same line of conduct, as they did in the woman's case, just now decided on—and let the petitioners have leave to withdraw their petition.

Mr. *Fierston* did not think it proper to go into the merits of the case, on the present question—he did not wish it. But gentlemen would consider, what had been the practice of the Assembly, on former occasions—many applications had been made, and many people, who have suffered under the laws, were relieved by the House; no opposition had ever been made to the commitment of their petitions.

A gentleman who suffered by a loss of public money, was relieved by the late House from that loss, and a thousand other precedents might be adduced—They should be very strong reasons, for the House to decide against listening to the memorials of the people: In the woman's case, which was just now dismissed, remedy could be had in the courts of justice—in the case of the petitioners, redress could not be procured but by the interference of the Legislature. Wherefore it becomes our duty to hear them. When the report it made, should it appear that the House have not the power to grant their prayer, or that it is improper, no doubt but they will determine so.

The merits of the case will then come fairly before us, and we shall have time to study it—but it does not appear candid in the gentlemen to give this opposition, at a time when it would be inconsistent to go into the investigation.

Mr. *MLene* was not surprized at the charge of want of candour, when he heard the gentlemen who made it draw a comparison between the individual, who by an unforeseen accident lost the public money, and the men who by an infraction of the law were fined for the offence; the cases were nothing alike—this is to make restoration of what has been lawfully taken: It will appear pretty too, to give a large sum of money to men who have done nothing for it but violated the laws—indeed he thought a better comparison might be had.

The question on commitment was put and determined in the affirmative—31 members rising in favour of it—whereupon it was referred to Messrs. Peters, Evans and Lollar to report.

A MESSAGE from the President and Supreme Executive Council, to the General Assembly.

GENTLEMEN,

Since the last session, there has been a renewal of the disturbances at Wyoming; some restless spirits there, having imagined a project of with-
drawing

drawing the inhabitants of that part of this state, and some part of the state of New York, from their allegiance, and of forming them into a new state, to be carried into effect by an armed force, in defiance of the laws of the two states. Having intelligence of this, we caused one of the principal conspirators to be apprehended, and secured in the jail of this City—and another who resided in the state of New York, at our request has been taken up by the authority of that government. The papers found on this occasion, fully discover the designs of these turbulent people, and some of their letters are herewith laid before you. The government of New York has, in this affair, manifested the most friendly and neighbourly disposition toward this state, and has promised to concur with us, in such future measures, as may be necessary to secure the due operation of the laws, and restore quiet, in those parts of both states where these irregular and ill-disposed settlers have their habitations. To protect the civil officers of our new County of Luzerne, in the exercise of their respective functions, we have ordered a body of militia to hold themselves in readiness to march thither, which will be done, unless some future circumstances, and information from those parts, may make it appear unnecessary.

The sudden and unaccountable obstruction which the currency of the paper money of this state has lately met with, we earnestly recommend to your consideration, as a matter of great importance; the private interest of the Citizens being very extensively affected by it, and the public in danger of suffering a loss, in its revenue of excise, duties, taxes, &c. proportionate to any depreciation the paper money may be attended with. Perhaps it may be advisable to put a stop to the further re-emissions on loan, which are permitted by law as it now stands.

We would likewise recommend to your consideration, the subject of a law to regulate the fees of the various offices of this state, especially those of the Executive and Judicial departments.

The lowering the price of the lands in the new purchase, we now think necessary, it being very evident they will not sell, till this takes place; at the same time, we are of opinion it would be of advantage to the state if those who become purchasers, had an exemption from taxes for several years, as it would be an encouragement to the people to become purchasers.

Since the expiration of the law, for granting lands to the officers and soldiers of the Pennsylvania line, a number of applications have been made to us, by persons who were entitled, but for want of information did not apply in time; we therefore recommend it to your honorable House, to pass a law, granting a further time for those people to come in and draw for their lands.

Sundry despatches we have received from Congress, are herewith communicated.

BENJAMIN FRANKLIN.

Council Chamber, Philadelphia, October 27, 1787.

The

The enclosures were as follow :

Two letters from Charles Thomson, Esquire, Secretary to Congress; the former, enclosing the report of the Convention lately assembled in Philadelphia, together with the resolution and letter accompanying the same.—And a letter enclosing the requisition of Congress, for the Year 1787, passed the 11th instant, (from which it appears, that there is wanting, for the services of the Year 1787, the payment of one Year's interest on the foreign debt, and such part of the principal as becomes due in the Year 1788, and the payment of one Year's interest, on the domestic debt, the sum of 3,009,798, $\frac{64}{100}$ Dollars.

That of the aforesaid sum 1,309,391 $\frac{64}{100}$ is absolutely necessary in specie.

Two acts of Congress, the one touching the grant of favors to foreign nations, stating the complaint of the ministry of the United Netherlands, against Virginia, for exempting French and American vessels from certain duties, to which the like commodities, imported in Dutch vessels, are less liable, as being contrary to the second article in their treaty with the United States, stipulating, that they shall be treated as the most favored nation.

And the other, for keeping up a body of seven hundred troops, on the western frontiers.

Two letters from the Delegates of this State, respecting the negotiating a purchase of a small tract of country, situate between some part of the northern boundary of this State, and Lake Erie—And informing Council of the apprehending of Joseph Hamilton, who was principally concerned, in exciting the late tumults in the County of Luzerne.

The association of the Connecticut people, assembled at Tioga, by which they jointly and severally pledge their honors, and property, real and personal, to use their utmost exertions, for the protection and defence of each other, in the possession of their lands, against all invaders, they having purchased them of the aboriginal proprietors, and hold them under the right of a Royal Charter—This is subscribed by sixty seven persons.

A letter from Caleb Benton, to John Franklin, dated August 9, 1787, promising to exert himself in getting settlers this fall, to go to the lands about Tioga, but he would fill the country in the spring. It goes on to say, Your policy will undoubtedly induce you not to suffer provisions to be carried from your settlement; but above all, I most earnestly advise you, to crush your enemies, and pursue them to the pit, and depend, I will assist you so far as in my power, and shall expect when I hear from you again, there will not be an *Achan* found in your Camp, and trust you will not suffer the unhallowed feet of a *Pennamite* to tread on the land which the Lord hath given you.

There is a N. B. also added in these words—Please to present
C my

my compliments to major Jenkins, and inform him, I am determined *his God shall be my God.*

A letter from Joseph Hamilton, to Colonel John Franklin, dated the 8th September, 1787. This letter promises also to fill the land with settlers: Hamilton upbraids Franklin for writing to him, as if it was apprehended he was discouraged—I don't know, says he, that we have given you *any just reason* for such an opinion: I am not in the least discouraged, *in case you DO as you write*—nay, I can say more, I am willing to risque any thing I possess upon it—I don't conceive I have given you *any just reason*, to make the conclusions you do make, however I heartily excuse you, *it is time to be jealous*: your jealousy begins with your friends, it will be well if it continues and ends with your enemies.

A letter from the same to the same, dated 10th September, 1787, complaining of Franklin's remissness, in suffering the Connecticut claimants to secure their titles under the Pennsylvania commissioners, and thereby injure their cause, *you* says he, you scold at your friends, nay your best friends, who would risque every thing for your welfare and safety, *why you reprobate them, for the most distant PROPOSAL*; in short such policy appears to me a very visible matter. I have known many a patient in a highly inflammable fever, being attended by a timid physician, who dares not let blood, suffer the dissolution of his whole body, barely for want of drawing a little blood from the arm.

He complains highly of suffering the Pennsylvania laws to regulate that Country. Shall we, after losing many hundreds of lives, suffer these dirty rascals to possess it, without the flash of a single rifle, or any of the least resistance; to be manœuvred, tricked and jockeyed, out of the whole, is too much. But if you should, in proper time, afford any manly resistance, my desire is that you should reserve an handsome seat on the Tioga point, for we think it policy, in such case, that either doctor Benton, or myself, should remove to that place in the spring. *But we can do nothing without your exertions, and that reflects on you too.* No righteous wheel will move, until you move, and that in such manner as to make the world know that you are in earnest—they all think you are jesting. Another observation—true policy knows no passion, you all will therefore calmly consider the whole matter, as to the precise time to begin. *But jure I am, if it is not done this fall, you cannot have much success from this quarter.*

A letter from the same, to the same, of the same date, city of Hudson.—In which he tells him, that the principal characters do not believe that they have power “to kick up a *bbbery* there, and complain of hearing too much expence. The truth is (he observes) such men will not venture any further part of their property and character, *so that you will readily see your schemes are at an end.*

Moreover

Moreover, sir, if I should tell them, that there was something about to be done, which by the way will be dangerous, our enemies would take the hint too soon; nay, if I could, in order to prove it, shew some clauses in your letter, which I have often done, *to keep up their spirits*, they would immediately say, this has been an old story for a long time; we do not believe it, Colonel Franklin is mistaken in his policy; from what we hear almost every day, *it is probable to us, that he will be in prison soon, if he is not already*. However if you suddenly and in proper time, sever the wheat from the chaff, and suffer not a dissenting whisper amongst you, I can assure you, that this part of the world will be alive, in removing themselves, as soon as they know of such matter. Gore says, in his letter to me, that, as soon as the Pennsylvania Commissioners meddle with the titles of lands, he would find Indians enough to protect them.—Where are Gore's Indians? are they scattered away by his new settlers at New-Town?

On motion, and by special order, the message was read a second time, and referred to Messrs. Fitzsimons, M'Lene and Rittenhouse, to arrange and report.

The Petitions from James Young and Charles Buzelot, insolvent debtors, were read a second time, and referred to Messrs. Will, Robinson, Davis, Hubley, Sands, Clark and Piper, to report thereon.

Messrs. Foulke, Hubley and M'Lene, were appointed a Committee to confer and agree with Council, on the manner, time and place, of proceeding to the choice of a President and Vice-President.

Mr. M'Lene thought the number too small, he wished it to be a respectable Committee that should be appointed to that business.

The Speaker was of opinion the Committee was a respectable Committee, but if the gentleman wished for an increase of the number, he should make the motion.

Whereupon Mr. M'Lene moved to add two others, which was agreed to, and Messrs. Lilly and Barr, were added.

Mr. M'Lene had wished to make a motion, for the appointment of a Committee, to consider on some means to appreciate the paper money, but he was doubtful now of the propriety of such a motion, as the business was brought forward by the message—he was of opinion if the House encouraged a disposition to attend to this subject, that it would have an immediate effect on the money, and a good effect too.

But it seemed to be generally thought that the business was in proper train, and as the gentleman was on the Committee of arrangement, he might introduce this subject particularly in the report.

Mr. Fitzsimons moved to add two more members to the Committee on the message, whereupon Messrs. Clymer and Lollar were appointed.

Adjourned until Monday-afternoon, 2 o'clock.

MONDAY,

MONDAY, October 29th, 1787. P. M.

The House met pursuant to adjournment.

A letter was received from Mr. *Euler*, requesting the House will excuse his absence, occasioned by the sudden death of his child.

A letter was presented from David Rittenhouse, soliciting to be continued in the office of treasurer of the state.

A petition from Robert Smith, praying the House would be pleased to appoint him their printer, was read—As was another from Melchior Steiner, praying to be appointed to print the minutes in German.

Mary Biorne's petition was presented by Mr. *Sands*, praying the House to reconsider their vote of Saturday, and to grant her relief.

Colonel *Will* presented a petition and remonstrance from ninety-two inhabitants of Moyamensing and Passyunk, complaining of that part of the law, passed last sessions, which encumbers them with opening and maintaining a new road, from Gray's ferry, and praying its suspension or repeal.

Ordered, that all the proceeding lie on the table.

Mr. *Foulke* reported verbally, from the Committee appointed on Saturday, that they had conferred with Council as directed, and Council had been pleased to nominate Wednesday next, at eleven o'clock, in the Assembly room, to proceed to the choice of a President and Vice-President, and that the order of procession be the same as last year, *viz.*

Constables with their Staves.

Sub-theriffs with their wands.

High sheriff and coroner with their wands.

Judges of the supreme court, and judges of the high court of errors and appeals.

Attorney general and prothonotary of the supreme court.

Marshal of the admiralty.

Judge and register general of the admiralty.

Wardens of the port of Philadelphia.

Naval officer, collector of the customs, and tonnage officers.

Treasurer and comptroller general.

Secretary of the land office.

Receiver general and surveyor general.

Justices of the peace.

Prothonotary of the court of common pleas, and clerk of the court of quarter sessions.

Clerk of the city court.

Master of the rolls and register of wills.

Secretary of the Council.

His excellency the PRESIDENT, and honorable the VICE-PRESIDENT.

Members of the Council, two and two.

Door-keeper of the Council.

Sergeant

Sergeant at arms, with the mace.

Clerks of the General Assembly.

Honorable the Speaker.

Members of the General Assembly, two and two.

Door-keeper of the General Assembly.

Provost and faculty of the university.

Officers of the militia.

In which the House concurred; and the Committee were directed to inform the Supreme Executive Council of their approbation.

The Committee appointed to arrange the papers accompanying the message on Saturday morning, made report which was read, and ordered to lie on the table.

The several gentlemen returned as representatives, to serve in the present Assembly, who now appeared in the House for the first time, were called upon to qualify themselves for that station.

But Mr. *Kennedy* wished, before that was done, to have the petition and certificate, presented by him last Thursday, read, as he observed a gentleman (Mr. Carson from Dauphin) on the floor, who was thought by the petitioners, not to be duly elected. Whereupon the petition was read a second time, and Michael Zimmerman's affidavit, swearing to some improprieties at the election in the Lebanon district, where he was inspector. After this,

Mr. *Fitzsimons* informed the speaker he had some papers on the same subject put into his hand, which he would present for the purpose of being read also—this being done.

The first appeared to be another affidavit made by the same Zimmerman, contradicting every thing contained in the former one.

The second was the oath of Mr. Hubley, corroborating the truth of this last affidavit made by Zimmerman.

The third was another oath, made by the constable Rudolph Kelcher who attended this election also, confirming minutely the assertions of the two latter deponents.

It was moved by Mr. *Kennedy* to commit these papers, and seconded by Mr. *Piper*.

Mr. *Lowry* was of opinion that it would be better not to commit: The whole complaint seems to depend on Zimmerman's evidence, which you find is here directly contradicted by himself, in an oath taken before two magistrates. This Zimmerman is an ignorant man, as he confesses himself in the first affidavit; he owns there that he does not understand English, and yet has been induced to sign a long certificate in the English language. The latter paper has been sworn to before two magistrates, both Germans, and who no doubt well explained to him the intention of this latter one: The whole appears of such a nature that it would be best not to regard it.

Mr. *Kennedy* for his part knew nothing of the proceedings at the election in Lebanon, nor did he know any thing of the magistrates, but

but it appeared the most regular step, for the House to pursue the usual mode of acting upon the petitions that came before them, if it is taken up, and gone through seriously, the House will be able to judge of the merits, but if we don't go on regularly, and what will the consequence be if we do not commit? why, I suppose we must admit Mr. Carson to his seat, and if we do admit him what follows? surely we are exposed to a great deal of inconveniences in deciding properly on the merits of the case; surely, sir, we ought to investigate this matter fully, and hear more depositions, there are too, more depositions than that of Zimmerman's before us, and a complaint is regularly made of improper conduct, and we are informed that this has given a turn to the election, but, before we decide, we ought to hear both sides fully.

Mr. *Legan* hoped when the gentleman from Cumberland had risen, that he was about to give the House assurance of further information, when he dwelt so strongly upon going forward with the enquiry—He is earnest for the further investigation, tho' upon no better foundation than mere surmise; he does not think how serious a matter it is, to suspend a representative from his seat in the legislature; the motives that will warrant such conduct ought to be well founded, and not of such a nature as the evidence before you, which cannot be deemed of sufficient weight to authorise the commitment.

I think we ought to go forward to the qualification of the members directly, and not prevent, for a moment, the gentleman from taking his seat.

Mr. *Fitzsimons*, If it is only to commit for the purpose of enquiring into the origin and foundation of this business, I have no objection, but if it is intended to deprive the member of his seat until the committee make report, I shall oppose it—It is a serious business to deny a member the seat for which he has been chosen by his constituents.—If I understand the gentleman, he intends that the member shall not be admitted, till the House decide upon the report of the Committee; if this is to be the consequence of the commitment, I shall object to it, but if not, I have no objection.

Mr. *Clymer* expected the House would act the same part in this case, as in the one from Westmoreland. It was well remembered that the gentlemen (Messrs. Findley and Barr) came from that county under a return, that was *certainly a bad one*—when it was first read over it was little regarded, tho it was plainly incomplete, and the gentlemen had liberty to take their seats; surely the election for Dauphin stands much fairer, the judges have determined, and made a full and complete return, and nothing is opposed to it but some vague reports, and those founded on a man who by his own oath deposes the contrary.—In the case of Westmoreland, members are admitted on improper returns, but here the gentleman must be refused, on nothing more than the suggestions of a man who contradicts himself.

Mr.

Mr. *Peters* did not mean to oppose the commitment of the papers; on the contrary, he was for committing, pretty generally, all applications that were made, and came with any propriety before them. He was for enquiring into this complaint, as well as others, and after what had been said of the return from Westmoreland he would join in committing it also, that every necessary examination might be made, of the right of the gentleman to a seat; he believed there was no question before the House on admitting the member from Dauphin, and he thought the commitment was not opposed, but as it related to that question.

Mr. *Kennedy*. The gentleman from the city (Mr. Clymer) says there is something similar in the case of the Westmoreland members and the one from Dauphin. but I think there is a very great difference, all we find in the return from Westmoreland is a note made by the judges, that some persons voted out of the districts in which they resided, and some account of votes, given in, that were laid aside—notwithstanding which we do not find any complaints are made, or that any thing improper had been done: They do not complain of a grievance, nor come with any petition before us; but as for what respects the County of Dauphin the people do complain of frauds, committed at the election, and they support these charges with affidavits, they make it appear that there was some undue practice, at the election, by more than one person, and we ought to listen to the prayer of the petition, and commit the papers, in order to ascertain who ought to be the fitting member. The gentleman from the County of Philadelphia (Mr. Logan) expected I would offer other evidence than what is before us, but I confess, sir, I do not know of any other, nor whether it is likely that it may be obtained or not, yet notwithstanding this, I think it improper to admit this gentleman to his seat, until the goodness and legality of the election is established, therefore we ought to let it be until the report is made; for if this gentleman has been admitted, and the report should be unfavorable, he will have a right to vote on the question. It would certainly be more modesty in him to withdraw, and let the matter be determined, without his judging in his own cause.

Mr. *Lollar* had observed the practice of the House had always been to refuse a member's vote on the question of his right to a seat; when they were admitted to a seat, before the propriety of the election was established, they remained silent, ever since he had known the House—moreover, this kind of investigation was productive of much trouble and inconvenience. It did not appear that there was much to support either side on the present occasion, therefore he concluded that he would not object to the commitment, and he thought he would not oppose the member's being admitted to his seat.

Mr. *M'Lex*. As to the comparison between the members from Westmoreland, and the gentleman from Dauphin, I can say, I do not see any thing like it, nor did any one object to those members taking their seats, moreover, at that time there was not a house without them, and they

they might therefore take their seats without any particular enquiry. When the return from Westmoreland was first read, it was not objected to, it was called for afterward, but no one thought it necessary to make enquiry into its validity, nor has any complaints of injustice or fraud been made by the inhabitants of that County.

The election of Dauphin is complained of, and it strikes me that it ought to be enquired into, the enquiry, I apprehend, will be extremely easy, and I imagine decency requires, that tho' the charge may not be well supported, yet they should be heard.—

I think it must be the wish of the gentleman himself, that such enquiry may be made, as his title to a seat will appear still more clear after examination, and I think the enquiry need be but very short.

Mr. *Peters* knew the consequences of contested elections too well, to agree to entering into investigations of this nature upon light grounds—He knew they generally took up a vast deal of the time and attention of the Legislature, and consequently occasioned an expenditure of much public money, but after all, he had known them end much to the dissatisfaction of both parties; I have, therefore, on all occasions, great objections to enter on this ground, unless something of great consequence plainly and forcibly appears, to demand it. The gentleman from Franklin endeavors to make a distinction between the returns from Westmoreland and this, and says in the former there was no ground for objection, tho' the face of the return is manifestly sufficient—but it was not noticed as there was no House—this distinction I think a very imperfect one, for if the election was improper it might have been stated at that time, tho' as there is now a House I think we are more competent to consider on that, as well as on this. I am at a loss to know how the gentleman will reconcile his conduct in admitting the Westmoreland members, when he declines to receive the gentleman from Dauphin, until the validity of the election is established by an enquiry made here, notwithstanding the return of his election being duly certified by the judges according to law this goes I believe so far as to fix a stigma on the character of the latter gentleman wholly unmerited. It has been well observed that the gentleman cannot sit judge in his own case, and I am glad to find it has been the constant practice of the House; what then is to forbid us the advantage of this gentleman's abilities, and at the same time suffer the enquiry to go forward in the Committee? Let the gentleman be placed on the same footing with others, and not suffer a stigma to be fixed upon one, more than the other.

Mr. *M'Lene* understood every thing the gentleman (Mr. *Peters*.) had said, but fixing a stigma—this he had no conception of, could he be stigmatized for what he had no hand in? if frauds were committed at elections, were gentlemen on the return culpable? or does it follow that if people complain of an election, that it must be a fraudulent one. I apprehend no stigma is fixed upon the gentleman. But
if

if I understand these papers right, there does not appear a necessity for spending much time over them, and the gentleman's right will be easily and speedily determined.

The question on the commitment was taken and determined in the affirmative; whereupon the papers were referred to Messrs. Lowrey, Lollar and Kennedy.

The gentlemen returned as representatives now appearing in the House for the first time, were severally qualified, and Mr. Carson among the rest.

On motion and by special order, the report of the Committee of arrangement was read a second time.

Ordered that the part of the message and the papers which respect the disturbances of the County of Luzerne, and the measures taken by Council in consequence, be committed to Messrs. Clymer, Wynkoop, Evans, Lowrey, Kennedy, George Heister, and M'Lene.

Ordered, that what relates to the sudden depreciation of the paper currency, be committed to Messrs. Fitzsimons, Findley and Rittenhouse.

Ordered, that the recommendation of a reduction in the price of public lands, be committed to Messrs. Peters, Lowrey and M'Lene.

Ordered, that part recommending a new regulation of fees, be committed to Messrs. Clymer, Hubley and Piper.

Ordered, that on the expediency of allowing further time for applications of the officers and soldiers of the Pennsylvania line, to take up lands, be committed to Messrs. Will, Willing and Barr.

Ordered, that the requisition of Congress for the current year, go to the Committee of ways and means.

Ordered, that the papers relative to raising seven hundred troops be committed to Messrs. Peters, Lollar and Schott.

Ordered, that the letter from the Pennsylvania Delegates in Congress, advising the purchase of a small tract of Country on Lake Erie, be committed to Messrs. Whelen, Joseph Heister, and M'Lene.

The resolution of Congress on the subject of granting favors in commerce, to foreign nations, requiring no immediate consideration, and

The recommendation of Congress to call a state Convention, having been already acted upon, it is not necessary to commit either of them.

The Secretary of the Supreme Executive Council delivered a verbal message to the Chair—stating the request of Council to have a Committee appointed by the House in order to confer with them to-morrow morning on some recent disturbances at Wyoming.

Whereupon ordered that the Committee appointed on the Wyoming business be directed to hold such conference.

The bill to enable the Commissioners of Chester County to sell a certain lot, &c. was read a second time and considered by paragraphs

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Adjourned until to-morrow morning at the usual time.

TUESDAY, October, 30, 1787. A. M.

The House met pursuant to adjournment.

The return from the County of Northumberland was received, and laid before the House, from which it appeared, that Samuel Mclay and John White, Esquires, were returned as representatives to the General Assembly, for the ensuing year.

A letter from Mr. Eleazer Ozwald, one from Mr. Daniel Humphreys, and another from Messrs. Hall and Sellers, were severally laid before the House, soliciting to be appointed to print the Journals of the General Assembly.

A letter from Thomas Bradford, requesting to be continued printer of the laws, was read, and the whole Ordered to lie on the table.

A petition from J. Milligan and H. Lenox, in behalf of themselves and E. Blaine assignees of J. Anderfen, was read, setting forth, that on the 9, of Jan, 1775, warrants were obtained for ten tracts of land, of three hundred acres each, and the full consideration money paid to the receiver general of the late proprietaries—that the late war commencing soon after, further proceedings in the business were unavoidably suspended—that upon application to the surveyor, of the district, they were informed that the surveyor did not think himself fully justified in surveying those lands, without further authority, as he conceived them to be without the limits of the former Indian purchase,—therefore praying this House, to direct the surveyor general to receive a return of surveys, for the said lands, in order that patents may issue to them, for the same.

Ordered to lie on the table.

Mr. *M'Lane* presented a petition, signed by forty-eight claimants of lands, under Pennsylvania titles, within the County of Luzerne, setting forth, that they have seen, with a great degree of satisfaction, sundry resolutions, recommended by the late House of Assembly to the attention of the present*, and which, if carried into effect, with the few amendments they crave leave to point out, will, they sincerely hope, be the means of giving general satisfaction.

The first resolution they pray may be amended, by enabling the commissioners in case of disagreement to choose an umpire.

The second to make the certificates receivable in the Land office for all payments.

The third, they wish no alteration in, but pray the first installment may be within the year, as many of them are really distressed by their losses at Wyoming.

Ordered to lie on the table.

Mr. *Will* presented a petition from William Von Phul, praying leave to establish a ferry, between Sunbury and the town of Northumberland.

Ordered to lie on the table.

Mr. *Peters* presented a petition from Peter Phelin, setting forth his having lost the certificate, given to him, for the depreciation of his

* See page 102. Vol 1st of this work.

pay, as a foldier in the late Pennsylvania line, and praying the House would order a renewal of the same.

Ordered to lie on the table.

On motion of Mr. *Fitzsimons*, the order of the day (being the appointment of printers)—was postponed until Thursday next.

And in the interim ordered that the several applications and proposals on this subject be referred to Messrs. Peters, Willing, Kennedy, Piper, and Lollar, to consider and report.—

The time of conference, between the Executive Council and Committee of the House, agreed to yesterday afternoon, having now arrived.—

On motion of Mr. *Lollar* and in order to give the several Committees time to set and prepare their reports.

The House adjourned until half past nine to-morrow, A. M.

WEDNESDAY, October 31, 1787, A. M.

The House met pursuant to adjournment.

Mr. *Fitzsimons* presented the petition of Daniel Murphey, late an officer of the navy of this state, praying the payment of the depreciation of his pay.

Ordered to lie on the table.

Mr. *Peters* presented the report of the Committee, on the resolution of Congress of the third of October, for raising of troops to be stationed on the frontiers.

Ordered to lie on the table.

Mr. *G. Clymer* presented the report (in part) of the committee on the papers, &c. which respect the disturbances at Wyoming. He observed, that in the conference they had with the Supreme Executive Council, on this subject, in obedience to the resolve of the House, they learned, that Council were of opinion, a permanent force of enlisted troops were requisite to be stationed in that country, in order to support the civil officers in the discharge of their duties, and to awe the violence of the conspirators; they suppose the militia might be able to take possession of the country, but could not be of further service, which in their opinion will not be effectual and conclusive. There were received accounts of several alarming circumstances, in consequence of the seizure of Franklin.

The late election of militia officers had like to have thrown an improper power into the hands of the enemies of our government.—It was apprehended, that nothing but the timely seizure of Franklin prevented his appointment to the office of colonel.

The disturbers of the peace had entered into an association, and had been joined by some, no doubt prompted thereto by a regard to their personal safety, but otherwise well attached to our laws and government, and who will exert themselves to effect the re-establishment of good order, when countenanced by a permanent force, maintained for the express purpose of suppressing those disturbances and restoring quiet to the settlement.

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The Committee joining in sentiment with Council, have agreed to report such a number of troops as they deem adequate to the service; though it might appear a small body, yet it would be sufficient, as no doubt was entertained but a large part of the inhabitants would steadily co-operate with them.

The resolution was received at the chair, and read as follows:

Resolved, that as in the opinion of this House, a permanent force of enlisted troops may be necessary to secure the peace of the County of Luzerne; that the supreme executive Council be authorised and required to obtain the permission of Congress, to raise any number of troops for the aforesaid purpose, not exceeding 500 men.

Mr. *McLene* could not help remarking upon this mode of introducing reports; he had been on this Committee, with the gentleman who had just presented it, and knew there were two resolutions agreed to by the Committee, he was much surprised to see it mutilated.

Mr. *G. Clymer* rose to inform the House, that though two resolutions were yesterday agreed to by the Committee, that they had a meeting since, when it was determined to introduce this one, to the attention of the House, as a matter of importance, which it would be improper to delay. If the gentleman was not acquainted with this transaction, he had only to blame himself, as yesterday, the Committee had agreed to meet again this morning;—let him attend to this in any remarks he may be about to make, and then say what he pleases.

Mr. *McLene* was about to have informed the Speaker when he was interrupted by the gentleman from the city, that he had the honor of being on the Committee to whom this business was referred; it was true the Committee had agreed to the resolution presented, but it was on the proviso that it was accompanied by another, which six out of the seven members appointed, had also acquiesced in.—If the gentlemen have since altered their opinion, it was unknown to him; he was in the committee room, when the gentlemen were conferring, but no one spoke to him about this change. Now he would be glad to know how it was that this resolution came alone. The other resolution he said, had been agreed to by six out of seven, and was intended to suspend the operation of the law, under which the Commissioners sent up to Wyoming act, in vesting the rights of Pennsylvanians in the Connecticut Claimants. This measure if he recollects right had been acceded to, in hopes of giving quiet to the settlement, and it being better than to have recourse to arms: Affairs seems now to be so far changed as to make it necessary, after all, to employ force to quell the turbulence of these people.—Now, will it be right, to continue giving away the property of the inhabitants of the state, in order to effect what it is found inadequate to? For what purpose are we to keep up a permanent force? or if we keep up a permanent force, of what use is it to give away the property of our citizens, and encumber the state with a heavy expence?

The Speaker told the gentleman (Mr. *McLene*) he must be under

der the necessity of calling him to order, if he did not confine himself to state the impropriety of presenting the report, as it was highly inconsistent to indulge him in going into a general examination of the merits of the business.

Mr. *McLene* proceeded—I was only going to shew the impropriety of the report being admitted in that form, and I believe every member of a Committee has a right to object, if the report of that Committee is not fairly presented.

The Speaker did not object to such observations, but forbid entering into the merits of the report.

Mr. *McLene* continued—well sir, and I was only going to shew the grounds upon which the report originated, in order to demonstrate the impropriety of admitting this resolution alone. I say sir, that the Committee considering the impropriety of continuing the operation of the existing law, at a time when it is necessary to have recourse to arms—

The Speaker *now called the member to order*, and stated the question to which the debate must be confined: A resolution is presented as the report of a Committee; an objection is raised by a member of that Committee, that the report is imperfect, and not as concurred in by six out of the seven gentlemen appointed to prepare the report. The question is, shall this report lie on your table? which precludes all debate on the merits of the matter reported, but that will be properly before the House on the second reading.

Mr. *Clymer* would satisfy the gentleman, as to that part of his conduct which he seems so much offended at; but I will first observe, sir, that there is no such irregularity in presenting the report as he is apprehensive of. The majority of the Committee, as I observed before, did last evening concur in the two resolutions the member has mentioned, but, sir, the Committee have met since, in conformity to their appointment of last evening, and this appointment and meeting serve to shew that the resolutions were not determined, but in the power of the Committee to correct, revise or annul, as the majority should think proper:—This being the case five or six of the members met this morning, and determined on presenting the first only.

And consequently the House may pass a decision on this resolution, as totally distinct and unconnected with the other.

Mr. *Wynkoop* acknowledged his having agreed with the other gentleman in making report for the present of this resolution only,—but he conceived the report to be a report in part, and that the Committee were not dissolved, in consequence of having reported what was now presented, but were still at liberty to report further, as might appear to them proper.

Mr. *Kennedy* acknowledged, as a member of the Committee, that the statement of the business was as related by the Chairman of the Committee (Mr. *Clymer*) and the gentleman near him (Mr. *Wynkoop*) he had agreed with them in making report immediately of this resolution,

resolution, as the intelligence which Council had communicated to them made expedition proper—He was still tho' of the same opinion with respect to the other resolution mentioned by the member near him (Mr. M'Lene) and thought it a very proper one, and hoped it would shortly be reported.

Mr. *M'Lene* if the report is only a report in part, and the other resolution may be brought on, had no objection to letting it lie on the table, but he had been apprehensive it was a report in full, and the Committee consequently discharged.

The opposition being withdrawn, the report was

Ordered to lie on the table.

The members now appearing for the first time, were severally qualified and took their seats.

On motion and by special order, the report of the Committee on the Wyoming business was read a second time.

Mr. *M'Lene* called for the reading of the several communications made by Council to the Committee, by which the resolution had been occasioned, whereupon they were presented by Mr. *George Clymer*.

The first was a letter from his Excellency George Clinton, Governor of the state of New-York, assuring his Excellency the President of his determination, steadily to co-operate with this state, in taking every measure, to bring the MALCONTENTS in the Western Country, TO CONDIGN AND EXEMPLARY PUNISHMENT.

Extracts from several other letters were read, when, on motion of Mr. Peters, ordered, that the further reading thereof be postponed.

The question was taken on the resolution and agreed to.

On motion, the petition of William Von-Phul was read a second time, and committed.

The supreme Executive Council being introduced into the Assembly Chamber, conformably to the resolution of Monday, proceeded, in conjunction with the House, to the election of a President and Vice-President, pursuant to the nineteenth section of the Constitution, and elected unanimously His Excellency BENJAMIN FRANKLIN, Esq. President, and the Honorable PETER MUHLENBURG, Esquire, Vice-President, for the ensuing year.

The state of the ballots being for

Peter Muhlenburg	42
Daniel Reddick	31

The members of Council and General Assembly, having severally signed a declaration thereof,

The House, then, in the order of procession, attended the proclamation of the President and Vice-President, at the court house, in the city of Philadelphia, and having returned to the Assembly chamber

On motion of Mr. *Peters*, the report of the Committee on that part of the message relative to raising seven hundred federal troops, for the protection of the settlers on the frontiers, was read a second time, and adopted. The resolution contained in the report went to
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the appointment of a Committee to bring in a bill to comply with the recommendation of Congress in this particular, whereupon

Ordered, that the Committee be Messrs. Peters, Lollar and Schott.

THURSDAY November, 1, 1787, A. M.

The House met pursuant to adjournment.

A petition from John Lyons, was read, praying leave to bring in a bill, for the purpose of establishing a ferry across the river Susquehanna, at the town of Sunbury.

Ordered to lie on the table.

Petitions from the Presbyterian congregation of middle Octorara, in the County of Lancaster, and of the first Presbyterian congregation of big spring, in New-town township, in the County of Cumberland, were read, severally praying to be incorporated, on motion and by special order, the same was read a second time.

Ordered that the petitioners have leave to bring in bills, agreeably to the prayer of their petitions.

A petition from the administrators, and major part of the legal representatives (in person or by guardians) of Ann Nedrow deceased, was read, setting forth, that divers real estates in the Counties of Philadelphia, Lancaster, and Montgomery were devised unto the said Ann by her brother Richard Johnson, that the said Ann at the time of the aforesaid devise, and until the time of her death, was under coverture, whereby she was disabled from making distribution of her estate, that from the numerous descendants of the said deceased, it is become impracticable, to procure a partition of the said estate, without the interference of the Legislature, therefore praying leave to bring in a bill, authorising the administrators to the estate of her late daughter Ann Keyser, to settle and dispose of the same, for the benefit of the heirs, and on motion and by special order, the same was read a second time, and referred to a grand Committee of claims, consisting of Messrs. Hiltzheimer, Logan, Foulke, Moore, Clemson, Clingan, Beale, Davis, Trexler, Piper, Maclay, Barr, Allison, Gilchrist, M'Calmont, Richards, Miley, Schott and Davison to report thereon.

A petition from Nicholas Kuhl and Daniel Weidle was read, setting forth, that their late father in law Nicholas Huseker, was attainted of high treason, and his estate confiscated to the use of the Commonwealth, that they had taken a decided part in favour of the late revolution, to the great injury of their private property, and as others have been indulged by the Legislature with the whole of the real estate, confiscated as the property of their ancestors, they pray an allowance, or gratuity, may be made them, of some of the unappropriated lands within this state.

On motion and by special order the same was read a second time, and referred to the grand Committee of claims to report thereon.

A petition from Devereaux Smith was read—setting forth his misfortunes and losses occasioned by his exertions as a justice of peace, to maintain and support the government of the late province of Pennsylvania,

nia, in the Western Country, against the lawless claim of Virginia, made thro' the influence of Dunmore, when governor of that state, and praying the house to make him a compensation in lands—

On motion and by special order, the same was read a second time, and referred to the grand Committee of claims.

The petition of James Millegan and Hugh Lennox, in behalf of themselves, and Colonel Ephraim Elaine, assignee of John Anderson, was read a second time, as were the petitions of Daniel Murphey and Peter Phelin, and referred to the last named Committee.

The petition of Mary Biorne, read October the 29th, was read a second time—

Ordered, that it be referred to Messrs. Work, Kennedy, and Sands.

The committee appointed on the proposals of the printers, made report, which was read; whereupon,

Agreeably to the order of the day, the house proceeded to ballot for printers;

First, for the minutes in English, when the votes stood for

Hall and Sellers,	-	-	32
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Eleazer Oswald,	-	-	27
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Second, for the laws; and the ballots were for

Thomas Bradford,	-	-	57
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Daniel Humphreys,	-	-	1
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Eleazer Oswald,	-	-	1
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And lastly, for the bills and minutes in German; when the votes appeared to be for

Michael Billmeyer,	-	-	51
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Steimer, Albright and Lahn,	-	-	7
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From which it appears, that Messrs. Hall and Sellers, Mr. Thomas Bradford, and Mr. Michael Billmeyer, are appointed printers to the house for the ensuing year.

Mr. *McLene* wished to be allowed to introduce the resolution he had in his hand. He was informed, by the treasurer, that there was expected to be in the treasury about 10,000*l.* and if it was destroyed, it might give a spring to the paper money.

He read the following in his place, and was seconded by Mr. Kennedy:

Resolved, that the Committee of accounts be, and they hereby are directed, forthwith to count, burn and destroy, such part of the bills of credit, of the late emission, as may now be found collected into the treasury of this state, *for the purpose of being destroyed*, agreeably to the act of Assembly, passed March 25, 1785.

Mr. *Peters* wished to extend the motion, as he looked upon it to be imperfect; and to add thereto, that they be directed to destroy “all such further sums as may come in during this session.”

Mr. *McLene*. My view is to have the Committee of accounts go into the business immediately; and I have no objection to the amendment.

Mr.

Mr. *Lollar* expected the Committee would continue to burn until the whole 20,000*l.* was destroyed.

Mr. *Peters* meant to have the resolution, if it must be adopted, go that far ; as it stood at present they are directed only to burn what is now in the treasury, which seems rather to bear down the power of the Committee, by confining it in the manner expressed in the resolution.

Mr. *Fitzsimons* thought the gentleman's object of giving a spring to the paper money, would be better effected if the resolution prohibited the treasurer from paying out any money until the 20,000*l.* was collected to be destroyed—he did not know what sum was in the treasury, but he supposed not sufficient to make up the quantity ordered by law to be destroyed annually. He would submit it to the gentlemen, whether such an extension of the resolution was not more likely to answer his purpose.

Mr. *Lollar* agreed with the member from the city, that it would be better, but questioned if a resolution of the House was adequate to forbid the payment of sums ordered to be paid by law—he did not know what sum was in the treasury, but he had learned some time since that 10,000*l.* was expected by the treasurer to be received about this time, and he apprehended the Committee would find enough to employ all their vacant time, as the bills were a good deal defaced.

Mr. *Peters* wished the resolution to be amended in the manner proposed ; the member who introduced the motion acquiesced in the amendment, and it was made accordingly, but the words in *Italic*, were erased, as unnecessary.

Col. *Hubley* did not think there was any necessity for the House to adopt this resolution, because the law under which the paper money issued, was fully competent to its destruction, the method of which was clearly laid down, and the Committee under that law might call at the treasury, and burn all the paper that the treasurer had prepared, without further directions from the House. It was not, he apprehended, a resolution of the House that would quiet or satisfy the people on this head ; nothing but actually destroying the money could have this effect, and he believed if the gentleman would look into law, that they will be satisfied the Committee have all the powers to perform this duty, without the aid of a resolution.

Mr. *Fitzsimons* read the clause of the law alluded to by Col. *Hubley*, from which it appeared, that the treasurer was ordered to reserve, out of the money collected in duties and taxes, the sum of £20,000, annually, and to deface that sum and report to the House, after which the Committee of accounts are to examine, count and burn the whole. Now it was well known to every member, that money enough to answer the various appropriations, was not received into the treasury. So that either the claim of the individual, or the claim of the state, for £20,000 annually, must remain unsatisfied ; the law directs the payment of certain sums to various claims, which, if answered, will not leave any thing in the treasury, while

a great part of the duties and taxes remain outstanding: So that if it is deemed requisite to give a spring to the money by burning this sum, it must follow of consequence, that the individuals must forego their demands for the present, as money enough to answer both purposes, it is well known cannot be obtained. The law directs equally a payment to them, and a reservation of £20,000; both cannot be complied with: and as for the resolution it means nothing, for all the directions it contains are clearly ordered in the law.

Mr. *Mc Lene*. We all seem to have the same object in view, and agree that something should be done, to favour the paper currency; there are duties and taxes to pay, out of which the £20,000 is to be reserved annually. I believe at present it is most material to attend to this object, and have that sum destroyed. The method pointed out in the law, makes it necessary for the treasurer to have reserved that sum, before he reports to the House; but I will leave it to any gentleman to say, whether waiting so long, will have as good an effect as proceeding immediately to destroy what may be collected, and now in the hands of the treasurer; certainly it will not; therefore, I hope the resolution will be agreed to.

The *Speaker* stated to the House that they had a Committee on the subject of the paper money, appointed in consequence of the notice taken of it by council in their message, and submitting to the gentleman whether it would not be better to let this resolution go to the same.

Mr. *Findly* was on the Committee alluded to, by the Speaker, but the Committee did not conceive that the present resolution was in any wise attached to the object under their consideration; they were of opinion that it was their duty to pay attention to it on new ground, and not to notice that part, which relates to the burning.

Mr. *Peters* considered it totally unnecessary to adopt the resolution, as the Committee of accounts would proceed to the burning, as a matter of course, whenever they find money is in the treasury to begin with.

Mr. *Lollar* conceived the intention of the resolution was to satisfy the people out of doors; that proper measures would be taken, to comply with that part of the law, which orders £20,000 to be sunk annually, and they will believe us in earnest when they find we have set about it. He apprehended it would be of great use to the paper, if the resolution was adopted.

Mr. *Mc Lene* could not see why the gentlemen should oppose the resolution; he was in hopes it would promote the circulation of the paper, and give a spring to it, for it is well known how hurtful the depreciation is to every class of citizens, it will restore their confidence, for at present the people had their doubts about the burning, but when they see it is destroyed, they will know their situation, and those doubts will be relieved. But if the gentlemen are afraid
this

this will be done too soon, I can't help it, though I am as able to bear my share of the loss and inconvenience as others.

Mr. *Kennedy* approved of the resolution, and agreed with the gentleman who introduced the motion, that it would have a good effect, and give a spring to the paper money, this could not be done too soon, and he should vote for the resolution, because if it did no good, it would do no harm.

Mr. *Logan* was on the Committee of accounts, and it had been in the custom of that Committee, to perform their duty without any special directions; last year the object of the resolution was accomplished without these directions; and he expressed his willingness to attend to this business, the moment he learned there was money in the hands of the treasurer to be destroyed. The Committee had already considered this subject, and meant to proceed to the burning immediately. He had sent to the treasurer and learned that a parcel was ready, and tho' it was but £1000, he would cheerfully dedicate his time to this business, notwithstanding it was as a gentleman had before remarked, a troublesome work.

The question was now taken on the resolution, and unanimously agreed to.

Agreeably to leave given, Mr. *Robinson* presented to the chair a bill, entitled "a supplement to an act of General Assembly, entitled an act for erecting the southern suburbs of the city of Philadelphia into the district of Southwark, for making the streets and roads already laid out therein public roads and highways, and for regulating such other streets and roads as the inhabitants thereof may hereafter lay out, and for other uses and purposes therein mentioned," which was read, and

Ordered to lie on the table.

Agreeably to leave given Colonel *Lowrey* presented to the chair a bill entitled "an act to incorporate the Presbyterian church of Middle Octorara, in Bart township, in the County of Lancaster."

Ordered to lie on the table.

The bill, entitled "an act to provide for the wages of the members of the State Convention, and to defray the expences of holding the same," was read the second time, and considered by paragraphs.

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Colonel *Piper* called for the reading of the return of representatives for the County of Bedford, observing that there was an unusual circumstance attended the election of the two gentlemen, and which the law he believed did not provide for. It appears that Mr. Cable and Mr. Saylor have each the same number of votes, and neither of the gentlemen attending, made him conceive a new election necessary, in order to have the County properly represented. The return being read

Colonel *Lowrey* informed the House, he had seen the member of Council, from that County, who had just arrived in town, and le

from him, that one of the gentlemen alluded to, by the member from Bedford, was on his way down, and expected in town in a day or two, and he had such documents with him, as was supposed would enable the House to decide on the sitting member, he therefore was of opinion, it would be better to let the matter rest until then, rather than put the County to the expence and trouble of holding a new election, unnecessarily.

Colonel *Piper* assured the House that this was a circumstance he was totally unacquainted with, and he would chearfully give up the idea of a new election.

Whereupon the business was postponed for the present, and

The House adjourned, to meet to-morrow morning, half past nine, A. M.

FRIDAY, November, 2, 1787, A. M.

The House met pursuant to adjournment.

Mr. *Moore* presented a petition from Henry Drink and William Vangorder, setting forth their being called upon by the government of Pennsylvania, to oppose the lawless banditti at Wyoming, styling themselves Connecticut claimants, that when on this service, July the 20th, 1784, they were fired upon, and desperately wounded, under which misfortune they long suffered and languished, and in consequence are rendered unable to obtain their subsistence by hard labor, and praying relief from this House.

On motion and by special order, the same was read a second time, and referred to the grand Committee of claims.

Mr. *Clarke* presented a petition, signed by a number of soldiers, in behalf of themselves, and others, who have not had time to make application for the lands to which they were entitled by the gratuity of the state, and praying the House will be pleased to extend the time for making claim to the same.

Ordered, that it be referred to Messrs. Will, Willing and Barr.

Mr. *Will* presented, agreeably to leave given, a bill entitled, "an act to establish a ferry across the river Susquehanna, opposite to the town of Sunbury, in the County of Northumberland, and vesting the right thereof in William Von-Phul, George Graff and William Graff, their heirs and assigns," which was read a first time, and

Ordered to lie on the table.

On motion of Mr. *Lowrey*, the bill entitled "an act to incorporate the Presbyterian church of Middle Octorara, Bart township, in the County of Lancaster," was read a second time, and considered by paragraphs.

On the clause, which directs, that the assent of the major part of the corporation should enable the officers to sell or dispose of the property vested in them,

Mr. *M'Lane* disliked, in business of such consequence, to the corporation, to put it in the power of so small a majority to govern, he wished to amend the charter, by inserting the words "two third parts" in lieu of major part.

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The *Speaker* observed this clause was worded in the same manner as in the other numerous charters, which the legislature of the state had at various times conferred on religious societies.

Mr. *Lollar*. If that is the case, sir, I see no reason for an alteration, especially if the congregation who sent in the bill, agree to have it in the manner it stands.

Mr. *M'Lene's* motion was not seconded, and the bill without further debate was gone thro'.

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Mr. *Lollar* called for the second reading of the petition of John Lyons, read the first time yesterday.

Ordered, that the petitioner have leave to bring in a bill, agreeable to the prayer of his petition.

The *Speaker* enquiring what business would the House proceed on—after a long silence——

Mr. *Peters*. It appears to me, sir, from a view of the business before the legislature, the present session must shortly terminate, unless other subjects come forward. There is one thing that ought to be noticed as early as convenient ; I mean the appointment of a delegation to represent this state in the Congress of the United States, as the federal year is about commencing.

The *Speaker* observed, if the gentleman wished to introduce that business, he should move to make it the order of some future day.

Mr. *Peters* was consulting the gentlemen near him, which they thought a proper day——when

Mr. *M'Lene* rose and moved to make it the order of the day, for this day week, and being seconded,

Ordered, that Friday next be assigned for the election of Delegates, to represent this state in Congress, and that the nomination of candidates take place until the morning of the day of election.

Mr. *Mitchell* (a member from York County) presented a petition from a number of the inhabitants of that County, which he had taken from the files of the last House, in order to introduce the subject to the attention of the present.

The petition was read, stating certain grievances in the present mode of collecting debts by legal process, and praying the revival of an act passed in the year 1700, which empowered the justices of the county courts to appoint appraisers of goods taken in execution, at whose appraisement the creditor was obliged to receive them ; also praying that constables may be made elective by the qualified freeholders of the respective townships, and empowered to serve process equally with the sheriff's officers, at the present rates allowed to constables.

Ordered to lie on the table.

Mr. *Wynkoop* called for the second reading of the petition from ninety-two inhabitants of Moyamensing and Passyunk, read the first time October 29.

Ordered,

Ordered, that it be referred to Messrs. Wynkoop, Clingan and Philips to report thereon.

The *Speaker* informed the House, there were no papers on the files, and unless the members could introduce new business, they might perhaps as well adjourn.

Mr. *Lollar* observed, as there was a great deal of business in the hands of the Committees, it would be right to adjourn, in order to give them time to prepare their reports. Whereupon,

Adjourned until half past nine to-morrow, A. M.

SATURDAY, November 3, 1787, A. M.

The House met pursuant to adjournment.

A petition from Robert Tate, was read remonstrating against the bill entitled, "an act to establish a ferry across the river Susquehanna, opposite to the town of Sunbury, in the County of Northumberland, and vesting the right thereof in William Von-Phul, George Graff and William Graff, their heirs and assigns," and praying the same may not be passed into a law.

Ordered to lie on the table.

Mr. *Moore* presented the petition of Elizabeth Davis, widow, praying the House would be pleased to exonerate the estate of her late husband, from the payment of certain public monies of which he was robbed.

Ordered to lie on the table.

Mr. *Peters* reported from the Committee appointed for that purpose, a bill entitled "an act for furnishing the quota of troops, required by Congress, for the protection of the Western frontiers, and for other purposes therein mentioned," which was read, and

Ordered to lie on the table.

Mr. *Lowrey* presented the report of the Committee, appointed October 29, on the petition of divers inhabitants of the County of Dauphin, respecting the late election in and for the said County, which was read, and

Ordered to lie on the table.

On motion, ordered, that Mr. Maclay for Northumberland, and Mr. Philips for Fayette, be added to the Committee of ways and means to devise supplies for the current year.

Mr. *Fitzsimons*, from the Committee appointed to inspect the files of the late House, and report such business as they may deem necessary to lay before this House, made a further report in part—

1st, That the report of a Committee on the petition from the freemen of the town of West-Chester, read in the late House September 23, be referred to a Committee. Whereupon,

Ordered, that it be referred to the Chester County members.

2d, That the report of the Committee on the petition of Alexander M'Dowell, surveyor, read in the late House, be referred to a Committee ;

Ordered, that Messrs. Ealer, Barr and Clark, be a Committee to report thereon.

Mr.

Mr. *Lollar* wished the House would take some means to destroy the continental state money, now in the treasury—if this was done, he thought it would be a satisfaction to the public, who did not approve of money lying there, tho' they had no apprehension of its being reissued, for which purpose, he would submit the following :

Resolved, that a Committee be appointed, to consider of and report some proper mode, to be pursued by this House, in order to effect the sinking and destroying such sum or sums of the last emission of continental money, commonly called continental state money, as at this time or hereafter may be found in the treasury of this state; whereupon,

Ordered, that Messrs. Kennedy, M'Lene and Lollar, be a Committee for the purposes mentioned in the resolution.

On motion, and by special order, the petition of Margaret Davies was read a second time;

Ordered, that it be referred to a Committee.

The *Speaker* named Mr. Moore, Mr. Evans, and Mr. Thomas, when it was agreed to add two more; whereupon, Mr. Evans nominated Mr. Lowry and Mr. Clingan.

Mr. *Lowry* objected serving on the Committee, as he was against making any such allowance; and he asked, if it was usual to put those on Committees, who were against the measure.

Mr. *Evans* had nominated the gentleman for the very reason he had just mentioned.—And the house determined, that those gentlemen should be added to the Committee.

Mr. *M'Lene* thought it improper to have gentlemen on Committees who are opposed to its object, and therefore moved, to reconsider the last vote, but he was not seconded.

The petition of the administrators and major part of the legal representatives (in person and by their guardians) of Ann Nedrow, deceased, was read a second time, and referred to Messrs. Salter, Logan and Carlson, to report thereon.

Mr. *Fitzsimons* presented a petition from the owners and occupiers of marsh meadow, in the northern and southern districts of Kingessing and Tinicum, taken from the files of the late house, praying an alteration in the law respecting the keeping in repair of those meadows, which was read; and on motion, and by special order, the same was read a second time;

Ordered, that the petitioners have leave to bring in a bill, agreeably to the prayer of their petition.

On motion of Mr. *Peters*, and by special order, the bill introduced this morning for furnishing the quota of troops required by Congress, was read a second time, and considered by paragraphs.

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Mr. *Logan* observed that the late penal law was confessedly a matter of experiment, and as such understood by the House which had enacted it—he wished to see how far it had answered any good purpose, and would therefore submit the following resolution: Resolved,

Resolved, that a Committee be appointed to take into consideration and enquire into the effects of the law for amending the penal laws of this state, enacted September 15, 1786: And to report how far the same answers the benevolent intentions of the Legislature; and, if the said Committee should think proper, to bring in a bill for altering or repealing the same.

Mr. *Clymer* thought this was making short work of it, and effecting an alteration, without sufficient attention. The subject is an important one to the public, but especially to the citizens of Philadelphia, he would therefore be better pleased to see the alteration gone into with more deliberation; for which reason, he moved to strike out the words printed in *Italic*, that so the House might, upon the report of the Committee, consider the subject well, before a Committee was appointed to bring in a bill.

Mr. *Logan* saw no occasion for striking out those words; for if the Committee on enquiry among their fellow citizens, and the Judges of the Courts, find the law is an improper one, and tends to injure the community, without any advantage whatsoever, it is the duty of the House to make the necessary alteration without delay; and by letting the words stand that dispatch is obtained—but if on enquiry the Committee find the law a good one, and to answer the benevolent intention of the Legislature, they will report so, and it will not be necessary to introduce a bill—by this means, the House will not be troubled so much in terminating the business.

Mr. *Lollar* should think it better that the Committee first report their observations, and whether it may be proper or not to appoint another Committee, for the purpose of bringing in a bill to make alteration: this he apprehended, was the usual and best mode of conducting business, for which reason he approved of the motion for striking out.

Mr. *Clymer* repeated, that by this course you jump over the report of the Committee, which is improper expedition; it would certainly be better to hear the sentiments of the Committee first on that subject, and judge of them, before a bill be introduced; the gentleman may say, it saves trouble, but nevertheless it is contrary to the practice and common order of the house.

Mr. *Kennedy* was clearly of opinion, it would be better to strike out the words, and pursue the usual mode.

Mr. *McLene*. The gentleman has introduced his motion, by observing, that the penal law was confessedly a law of experiment—well, be it so; but it has surely benefited the state; it has kept a great number of these disorderly people out of mischief, by confining them for such a length of time: now there appears a wish in some gentlemen to repeal this law, but surely they ought to wait until it is applied for by the people, or remonstrated against by the courts of justice, who are best able to judge how much it operates as a grievance; hitherto we have heard no complaints, then certainly there is no necessity

necessity for an alteration. It is true there have been some escapes under this law, but they are few and easily remedied; the counties are better provided, for their security, than at first, and those that are not, may secure them by sending them here, as allowed by law, and then escapes will not happen. But some gentlemen, I apprehend, think we never shall do right, till we hang them; they cannot bear or suffer them to live, but, sir, I believe a living man is better than a dead one, and the law that provides for his punishment, existence and amendment, is better than one which provides only death as a punishment.

And it strikes me, sir, that it would be better for the House to rest contented, at least until some complaints come before us, either from the judges, or the people, who at present seem satisfied with the law.

I don't know the design of the motion, sir, but I think it best that the words objected to should go out, and after that is agreed to, I mean to move the postponement, as I think we are entering on this business without any good reason.

Mr. *Fitzsimons* considered it a matter of little importance whether the words were struck out or not; for if an alteration was necessary and plainly appeared so, the House could not hesitate in passing a bill for that purpose; he had been of opinion, when the test law was last before the House, that it was imperfect and must require future amendment.

The *Speaker* informed him the motion was on the penal law.

Mr. *Fitzsimons* had misunderstood the subject of the first motion, but nevertheless the argument with respect to striking out applied, and he thought it a matter of indifference whether it was agreed to or not.

Mr. *Peters*. The gentleman on my left (Mr. *McLene*) seems to argue against appointing a Committee, by concluding the people are satisfied, because he has heard no complaints. I hope his intention is not to blind or mislead the House in their decision; tho' he has hitherto heard no complaints, yet, I assure him I have, and the people of this city are particularly burthened and oppressed by the operation of the law—The neighbourhood is prodigiously infested by these people, and the inhabitants are obliged to keep a kind of garrison; it is big with many inconveniences, nor was the number of vagrants and robbers ever so great, as at present. The truth is, that at first they were alarmed at the operation of the law, but now it is fell into contempt; and they have no apprehensions to dread from its severity.

It is not wished to repeal the law, but it may be modified in such a manner as to answer the purposes for which it was intended, more effectually than at present.

Mr. *McLene* would set the gentleman, (Mr. *Peters*) right; he would have him take the distinction between having heard complaints as a citizen, and having heard them as a legislator; he had heard none, for none had come before the House.

He had heard objections out of doors, and some strongly urge the necessity of hanging them: now he hoped the gentlemen did not wish that to be the only punishment for these wretches.

Mr.

Mr. *Peters* did not say what he did or did not *wish* on that head, but he *wished* the gentleman would confine himself to the point.

The question on striking out was put, and the words in *Italic* were erased.

Mr. *M'Lene* now moved the postponement, as promised, but was not seconded, when the motion was referred to Messrs. Logan, Peters, Chapman, Kennedy and M'Lene to report thereon.

The report of the Committee on the petition from Dauphin, respecting the late election, was on motion of Colonel Lowrey and by special order read a second time, whereupon,

Resolved, that *the said petition be dismissed for want of evidence to support the same.*

The Committee upon the state of affairs in the County of Luzerne further report, that a Committee be appointed to bring in a bill to oblige the free-male inhabitants of the said County to give fresh assurances of their allegiance to this state, and make and subscribe a declaration in which they shall acknowledge the right of this state, to extend its jurisdiction over the County of Luzerne; and renouncing all claim to lands within the said County, under Connecticut or the Susquehanna company, excepting what is intended to be confirmed to the Connecticut claimants, by the law for that purpose enacted; and in which also they shall engage to aid the officers of the County, in the full execution of the laws.

The foregoing report was read, and

Ordered to lie on the table,

It was moved to adjourn until Wednesday afternoon, in order to let the Citizens of Philadelphia have the use of the State-House, for holding the election for Delegates to Convention on Tuesday—This motion Mr. *M'Lene* would oppose by barely giving it his negative, as he could not consent to lose so much time.

Mr. *G. Clymer* insisted there would be no loss of time, for at present there was no business before the House, and the interval might be usefully employed in Committees preparing the business referred to them.

Whereupon the House adjourned till Wednesday, P. M.

WEDNESDAY, November, 7th, 1787, P. M.

The House met pursuant to adjournment.

The members who now appeared for the first time in the House, were severally qualified, and took their seats accordingly.

The *Speaker* had received an address from John Robinson, stating the embarrassment he sustains from the neglect of government to pay him, and certain militia under his command, for services rendered in the year 1781.

On motion, and by special order, the same was read a second time, and ordered to be referred to the grand Committee of claims.

A letter had been received from Mr. *Ealer*, excusing his absence, occasioned by the extreme illness of his daughter.

Mr. *Peters* presented a petition from Thomas M'Intire, an insolvent debtor

debtor confined in the jail of this city and County of Philadelphia, praying the House to interpose its authority to procure his liberation, as the existing laws were not competent to discharge him from confinement, in as much as he could not comply with that part which directs the debtor to serve the creditor with a notice of an application to the court of common pleas, for a discharge, because his creditor was at Calcutta, in India.

On motion, and by special order, the same was read a second time, and referred to the Committee on the petitions of insolvent debtors.

The *Speaker* informed the House that Samuel Vaughan, Esquire, Vice-President of the American Philosophical Society, &c. presented the General Assembly with two Volumes of Philosophical Transactions.

No further business presenting, the House adjourn'd to meet tomorrow morning half past nine, A. M.

THURSDAY, November 8, 1787, A. M.

The House met pursuant to adjournment.

The following petition was presented; and on motion, and by special order, the same was read a second time, and referred to Messrs. Wynkoop, M'Lene and Rittenhouse.

To the honorable the Representatives of the Freemen of Pennsylvania, in General Assembly met.

The petition of the American Philosophical Society held at Philadelphia, for promoting useful knowledge,

HUMBLY SHEWETH,

THAT the extensive field of natural production in this country, as yet little explored, affords much ground to hope, that by examining and analyzing the various productions of this extensive continent, many important discoveries may be made, for bringing into use, as well for home consumption as for exportation, many valuable materials, which we have hitherto been accustomed to import from other countries.

That the labors and researches of your petitioners, are peculiarly adapted to promote these great and valuable ends; but having, as a Society, no permanent funds for purchasing the necessary apparatus for experiments, and distributing rewards and premiums for useful discoveries, your petitioners confidently hope they shall receive the patronage and assistance of the Legislature of Pennsylvania, by partaking in common with divers seminaries of learning, of the waste lands of the state, set apart as donations to such useful institutions.

Your petitioners therefore pray, that the Legislature will be pleased to grant to the American Philosophical Society, such portions of the said lands, as to them in their wisdom shall seem meet.

JOHN EWING, V. P.

WILLIAM WHITE, V. P.

DAVID RITTENHOUSE, V. P.

SAMUEL VAUGHAN.

Philadelphia, 2d Nov. 1787.

The *Speaker* laid before the House the following memorial, and the estimate which accompanied it.

The hon. Representatives of Pennsylvania, in General Assembly met.

The memorial of John Penn, jun. and John Penn.

Your memorialists beg leave to lay before your honorable House, an estimate from the public records, of the losses they have sustained by the late revolution.

Four peaceful years have elapsed, since the confirmation of American independence; during which your memorialists have remained in painful uncertainty, with regard to an adequate compensation from the commonwealth of Pennsylvania. They now submit the consideration of that important subject to your honorable House, and earnestly solicit their favorable decision.

Confiding in the honor and generosity of a country, planted and fostered by the hand of their ancestor, your memorialists humbly pray, that the donation heretofore granted to them, may be reconsidered, and that such further recompence for their losses, may be given by your honorable House, in their wisdom and justice, as the descendants of William Penn may esteem proportionate to their claims, and becoming the dignity of a free, independent and honorable people.

JOHN PENN, jun.

JOHN PENN.

An account of the grant of Pennsylvania to William Penn, Esq. with an account of the sales and other dispositions of land, made by the said William Penn, the first proprietor thereof, and by other succeeding proprietors, from and between the 4th day of March, 1680-1, to December, 1776, with a computation of the arrears of quit-rent to March, 1779. And the annual value of the said quit-rent, together with an estimate of the value of various articles of property, which belonged to the honorable John Penn, jun. and the honorable John Penn, sen. in the year 1779, before the 27th day of November, in the same year, when the act of Assembly was passed, entitled, "an act for vesting the estate of the late proprietaries of Pennsylvania in this Commonwealth."

In the year 1680, the English nation being indebted to the said William Penn, he applied by petition to king Charles the 2d. for a grant of a tract of country in America, in satisfaction for the whole or part of that debt; which petition being considered and approved, his majesty was pleased in compliance therewith, to grant unto the said William Penn, his heirs and assigns forever, his letters patent, bearing date the 4th day of March, 1680-1, for a certain tract of land in America, then first named Pennsylvania, under a particular description mentioned in the said patent, together with the powers of government, the quantity of land included within the limits of Pennsylvania, according to late computations, amounts to 27,955,200 acres.

Here follows the particular disposals and sales, by the proprietaries of the lands SUMMARY OF THE FOREGOING :

Penn-

Pennsylvania contains,	Acres,	27,955,200
DEDUCTIONS :		
Allowance for roads, on the whole quantity, 6 per cent	1,677,312	
Sale of lands, for which the purchase-money has been received,	4,075,017-80	
Do. from annual quit-rent, without purchase-money,	59,958-80	
Gifts by several proprietaries to several branches of their families,	111,250	
Amount of appropriations of lands by the proprietaries,	441,534-156	
	<hr/>	6,363,072-156

Balance of land, for which nothing has been received by William Penn, esq. the first proprietary, or any of his descendants, 21,592,127 4
 Computation of the arrears of quit-rent, shewing the balance of those arrears to March, 1779, and the annual value of those quit-rents. The balance of quit-rent due is £. 118,569-4-7 1-2, Sterling, £. 197,615-7-4 3-4, Currency,

The yearly value of quit-rents, charged on the lands contained in the account, is £. 10,204-0-7 1-4, Sterling,
 ESTIMATE of the value of certain articles of property which belonged to the honorable John Penn, jun. and the honorable John Penn, sen. in the year 1779.

Land in Pennsylvania, amounting to 21,592,127. acres 4 perches, for which no purchase money had been paid, and which if estimated at £. 10 sterling per 100 acres, viz. £. 5, sterling per 100 acres purchase money, and £. 5, sterling more in lieu of 1 penny sterling per acre per annum, quit-rent; being the terms on which the proprietaries sold their land in the year 1776, will be £. 2,159,212-14-0, sterling. And if estimated at £. 6, sterling, in lieu of £. 10, Pennsylvania currency, per 100 acres, without quit-rent, being the present terms of sale by the state, the amount will be £. 1,295,527-12-4 3-4. sterling.

Arrears of quit-rent, as stated in the above account, £. 118,569-4-7 1-4
 Annual amount of quit-rent, being £. 10,204-0-7 1-4, valued at 12 year's purchase, 122,448-7-3

ARTICLES OF UNCERTAIN VALUE.

Government, - - - - -
 Escheated land, - - - - -
 Three fifths of royal mines, - - -
 One fifth of all other mines, - - -

Total, sterling.

The

The account is certified to be drawn up at the request of the honorable John Penn, jun. and the honorable John Penn, sen. by Edmond Physick.

Ordered to lie on the table.

Mr. *Robinson* presented the petition of Anthony Bastine, an insolvent debtor, confined in the jail of this city, praying the House to pass an act for his liberation. On motion and by special order, the same was read a second time, and referred to the Committee on the petitions of insolvents.

Mr. *Hilly* presented a petition from the trustees of Franklin college, at Lancaster, praying the House to grant the institution two lots, and the store-house erected thereon in the borough of Lancaster. On motion and by special order, the same was read a second time, and referred to Messrs. Will, Hubley and Richards.

Mr. *Lollar* presented a petition from a number of the invalid corps stationed in this city, praying the House to make up the depreciation of their present pay, which they are unable any longer to sustain, or grant them such other relief as their wisdom may direct.

On motion and by special order, it was read a second time, and referred to the grand Committee on claims.

Mr. *Lollar* also presented a petition from Abraham Lukens, setting forth, that Catharine Jones, of the city of Philadelphia, by her last will, bequeathed unto her three nieces, Elizabeth Jones, now the wife of Robert Lukens, Mary Jones and Catharine Jones, the sum of fifty pounds, which said Mary and Catharine died in their minority, whereby the said Elizabeth became entitled to the whole legacy; that Gayner Bartholomew, who afterwards intermarried with David Kinsey, was appointed executrix of the said last will; that the said money was placed at interest in the hands of John Fox, for the advantage of the said Elizabeth; that the said John Fox was attainted of high treason, and his estate, real and personal, sold for the use of this Commonwealth; that the said Elizabeth intermarried with Robert Lukens, the son of the petitioner, who assigned the same to him; that the petitioner proceeded to New-York, in order to recover the said legacy of the said John Fox, but without effect; that he is precluded from recovering the legacy, except by the interposition of the Legislature; therefore praying this House to grant him relief in the premises.

On motion and by special order, the same was read a second time, and ordered to be referred to the grand Committee on claims.

Mr. *McClay*, agreeably to leave given, presented a bill to enable John Lion to establish a ferry across the Susquehannah, at Sunbury.

On motion and by special order, the same was read a second time.

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Mr. *Peters* presented the following report :

The Committee, to whom was referred the memorial of Richard Wells and John Clifford, late owners of the ship Anna, forfeited to the State, as set forth in the memorial, beg leave to report,

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That the case of the said owners appears singularly hard, as the offence in consequence whereof the forfeiture accrued, was committed, as appears by the certificate of the Court, before whom the trial was had, without their participation or knowledge.

That although it may be politically expedient, to consider owners generally responsible in point of property, for the conduct of those they employ in their vessels, yet in this case, we conceive an exception ought to be made, as the ship was beyond the sea, when the law, by the breach whereof she became forfeited, was passed, and of course they could have no notice of it, so as to take cautionary measures for securing themselves against the misconduct of their officers and mariners, entrusted with the vessel.

That all undue exercises of severity in government are impolitic, as they defeat the purposes intended by them; and it is well known that smuggling in other countries, has frequently increased, in proportion to the severity of the trade-laws. And in England, where the laws are extremely rigorous, powers of mitigation are lodged in a board of commissioners, who make the necessary discriminations on the subject.

That we do not perceive any power of restoring the forfeiture in the whole or in part, exists in any executive branch of government in Pennsylvania; and though fully sensible of the propriety of discouraging breaches of our trade-laws, yet we are convinced that discriminations will be found proper on many occasions. The Supreme Executive Council, have a power by the 20th section of the frame of government, to *remit fines and grant pardons*, in all cases but those of impeachments, yet it does not give them the right of interfering in cases of *forfeiture*.

A *fine* being a pecuniary commutation for a corporal punishment, and a *forfeiture*, a resumption of property lost to the individual, by breaches of the municipal laws of society; and which has, *in consequence* of such breaches, become *fores fact*, or forfeited, *i. e.* passed from the owners to the community. In the former case Council have a right to remit as they have to pardon the corporal punishment; but the right of revesting property forfeited, remains with the people, being a branch of sovereignty not delegated to the Supreme Executive. Former legislatures have been sensible of this, and acted accordingly, as the House may perceive by referring to the cases of Reynold Kean, 1 vol. of laws, 159—224; Henry Hugh Ferguson, 446; the estate of N. Vernon, 225; John Spring, vol. 2, chap. 43. And in the case of the tumult in Walnut-street, Philadelphia, the House have interfered in pardoning, where fines might have been imposed; because, as is recited with much justice and propriety in the bill on that subject, vol. 1, chap. 158—“the rigorous prosecution of justice in all cases is not expedient.”

In the case referred to us, we therefore beg leave to recommend to the House, the following resolution:

Resolved, That a Committee be appointed to draft and report a bill for the relinquishment of the share of the forfeiture, passed to the state, by the condemnation of the ship Anna, to Richard Wells and John Clifford, late owners of the said ship.

And

And that there may be a permanent power in the Executive, competent to consider of and redress cases of the like nature, superceding the necessity of farther interference of the Legislature, we beg leave further to report, that it be

Resolved, That a Committee be appointed to draught and report a bill, vesting in the Supreme Executive Council, a power to mitigate or restore, if they deem proper, any forfeiture or forfeitures, which may hereafter accrue to the state, in consequence of offences against the laws for the regulation of trade.

Ordered to lie on the table.

The Secretary to Council being introduced into the Assembly Chamber, delivered the following :

A MESSAGE from the President and the Supreme Executive Council, to the General Assembly.

Since your resolution of the 31st ult. was forwarded to Congress, Council have received information, that the members remaining at New-York were not sufficient to form a representation of the United States.

As the danger to the State appears to be pressing, and the permission solicited from Congress, cannot now be obtained—Council therefore recommend it to the General Assembly, to adopt effectual measures, for enforcing the laws of the State, in the County of Luzerne, which they are of opinion cannot be done without a permanent force.

The expulsion of the Commissioners from Wyoming, will occasion a delay, in the execution of their duty under the late law. Council therefore recommend that a further time be given, for completing the services expected from them, under their present appointment.

The case of Colonel Montger submitted to the Committee of a former House, is recommended to the attention of the General Assembly, as he appears to have performed sundry services, for which he has received no compensation.

The petition of Captain Woolpper is herewith transmitted, as the powers of Council do not extend to his case.

Considerable deficiencies have arisen in the collection of taxes, owing to the neglect of some of the magistrates, in not prosecuting delinquents, after returns are furnished to them by the collectors.

This abuse, in the opinion of Council, merits the attention of the General Assembly, either in removing the Magistrates guilty of such neglect, or subjecting them to some penalty that may compel them to a faithful discharge of their duty.

November 18th, 1787.

BENJAMIN FRANKLIN.

On motion and by special order the same was read a second time,

Ordered, that that part of the message relative to the disturbances at Wyoming, be referred to the Committee on the Luzerne business.

Ordered, that part which respects the care of Colonel Montger, be referred to the grand Committee of claims.

Ordered, that what relates to Mr. Woolpper, be referred to the same Committee.

Ordered

Ordered, that Messrs. Findley, Robinson and M'Lene be a Committee, on that part of the message which relates to devising means for the better collection of the public revenues.

Mr. *Kennedy* presented a bill to incorporate the first Presbyterian congregation at Big Spring, in New-town township, in the County of Cumberland, which on motion, and by special order, was read a second time, ordered that it be transcribed, and in the mean time printed for public consideration.

On motion of Mr. *M'Lene*, Ordered, that Saturday next be assigned for electing a treasurer for the ensuing year.

Mr. *Fitzsimons* hoped it was understood, that the House should get the treasurer's accounts for the last year, before they went into a choice for another.

It was moved by Mr. *Lollar*, to take up for a third reading, the bill entitled, "an act to provide for the wages of the state Convention and to defray the expences of holding the same."

Mr. *M'Lene* moved to postpone.

Mr. *Clymer* hoped the gentleman would assign some reason to induce the House to comply with his motion, for certainly it was not because *he* moved the postponement, that the members should acquiesce.

Mr. *M'Lene* had not seen the bill till this minute, when it was put into his hand; if bills are printed for public consideration it was but right to allow time for deliberation.

Mr. *Clymer* had no objection to allowing time, if the member was unprepared, tho' it was a bill of the most simple nature, and contained but one clause, whose object was well known from the title.

The bill was accordingly postponed.

Mr. *Fitzsimons*. I shall move you, sir, that this bill be made the order of the day for to-morrow, as I wish to avoid all unnecessary delay; there is but little business before the House, and that little may be soon done, nor can we sit here long for nothing, only to encrease the public expences, already sufficiently burthensome.

Whereupon, ordered, that the forementioned bill be the order of the day for to-morrow.

The *Speaker* from a view of the business before the House saw nothing that could keep them together longer than Saturday week.

Mr. *G. Clymer* observed that the only business which kept the House waiting, was the report of the Committee on ways and means; this depended on obtaining a statement of the public accounts from the comptroller general and treasurer—

Wherefore, he would offer the following resolution.

That the state treasurer and comptroller general do prepare and lay before the General Assembly within three days after the opening of the first session in every year, statements of the public accounts made up to the first day of October preceding

Mr. *Fitzsimons* read a letter he had just received from the treasurer, with a view to prevent any improper reflections upon that gentleman,
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from

from which it appeared, that it had been the common practice of that officer to make up his accounts to the first of January, therefore it was nothing surprising the accounts up to the present time were not prepared earlier.—But no doubt the House would see the propriety of directing the alteration proposed in the resolution, as it would necessarily dispatch the public business.

Wherefore the foregoing resolution was unanimously agreed to.

Mr. *Lowrey* presented to the chair a statement of the Bedford election, signed by the Judges of the first district, from which it appeared that a ticket was received by them and filed with the others, but not added to the return, because the Counsellor was separated from the Representatives to the Assembly, which is contrary to the directions of the law, and submitting whether that vote shall be allowed of by the House, as in that case it will supercede the necessity of a new election, and determine in favor of Jacob Saylor, who otherwise is equalled in number of votes by Abraham Cable.

On motion and by special order the paper was read a second time, and moved to be committed.

Mr. *MLene* moved to postpone, as he deemed it necessary to lie somewhat longer, before order was taken on it.

Colonel *Lowrey* hoped it would be committed, in order that it might be decided before the end of the session, whether a new election was or was not necessary.

Colonel *Piper* wished it to be committed, and told the House he was possessed of some information, which he would lay before the Committee, that might in a great measure enable them to decide upon the return, he hoped, to the satisfaction of the House.

Mr. *MLene* withdrew his motion for postponement, and the paper was referred to Messrs. Lowrey, Kennedy and Lollar.

Mr. *MLene* observed a resolution had been adopted by the House, a few days since, directing the Committee of accounts to burn the money in the treasury; he would be glad the Committee might inform the House of the progress they had made in that business.

Mr. *Lollar* not seeing the chairman in his place would say what had been done, before the adjournment on Saturday last; the Committee had employed two afternoons in his service, since which he had been home; at that time eight thousand bills were destroyed, but their amount was not very considerable, because the bills were but of a small denomination. The Committee meant to proceed with all possible dispatch, and should attend at the treasury this afternoon.

Mr. *Lettings* wished to hear, what the Committee on that part of the message that relates to the sudden depreciation of the paper money had done in that particular.

No gentleman answering to this point,

The *Speaker* observed, that it would be best, perhaps, to order the Committees to be called over to-morrow, when gentlemen would be prepared to say in what state or forwardness the various subjects referred

ferred to them were in. He went on to state the length of time the two last Houses had been in session—the former of the two had made the first session 65 days, the second session 47, and the third session 37—in all 149 days. The first session of the late House was 69 days, the second 40, and the third 24—in all 133. Now it appears that the first session of the present House is not likely to exceed 30 days; the great saving here made, will appear on the first view, for the House cannot sit at a less expence than 200 dollars per day. If the Committees dispatch the business which has been referred to them, there is a high probability of the House rising by Saturday week, and of saving, comparatively speaking, 30 or 40 day's expence.

Mr. *Fitzsimons* observed, that the General Assembly annually cost the state about £ 10,000. a very great sum, when added to the other public burthens; if it is possible to avoid it and in our power, certainly gentlemen will exert themselves in making all desirable dispatch.

No further business appearing for the present, the House adjourned to meet to-morrow half past nine, A. M.

FRIDAY, November 9, 1787, A. M.

The House met pursuant to adjournment.

A petition from John Wiley was read, praying certificates of this state, for services done by him during the late war, may be received in discharge of his mortgage in the general loan-office; and on motion and by special order, the same was read a second time, and referred to the grand Committee of claims.

A petition from John Wilson and Richard Swan, executors of the last will and testament of William Swan, late of Paxton township, in the county of Dauphin, was read, setting forth, that there is due to this state a balance of 218l. 8s. 8d. on account of money collected in the payment of taxes, and praying that certificates of money loaned to this state may be received in payment.

Ordered to be referred to the last named Committee.

Mr. *Lewis* presented a memorial from the board of managers and manufacturing committee of the society for the encouragement of manufactures and the useful arts in this state, which was read, suggesting the propriety of inflicting by law, severe and heavy penalties on those who induce an artist to emigrate into a foreign country, or who export the implements and machines for the better carrying on manufactures of which they are possessed; and on motion and by special order, the same was read a second time.

Mr. *Fitzsimons* called it up for a second reading, with a view to have it committed. He would mention some circumstances that would, in some degree, point out the necessity of attending to the object now introduced to the House. It had been alleged, that the two machines for spinning cotton, which were in this state, had been, he suspected, procured by accident; however be that as it may, some people have found means to possess themselves of them, and sent them out of the country. What made it more serious was, that a subscription is apprehended

hended to be set on foot, to purchase up every thing that may enable manufactures to be constructed here with advantage : It appeared to him the duty of the House, as it was the desire of the people, to apply themselves to this occupation, that wholesome laws should be provided to prevent such illicit and baneful practices in future, and protect those who have engaged in the object of the society for the promotion of domestic manufactures.

Whereupon the memorial was referred to Messrs. Fitzsimons, Lewis, and Kennedy, to report thereon.

A return of an election held in the county of Berks, for a representative, in the room of Charles Middle, Esq. was received and read, by which it appears that Philip Keem n, Esq. is duly elected to serve for the ensuing year ; and he appearing in the House, was qualified agreeably to the direction of the constitution.

The Committee, on that part of the message relative to the purchase of a small tract of land on Lake Erie, made report, that in their opinion, the purchase of the tract alluded to, would be of considerable advantage to the state.—

They therefore offer the following resolution :

Resolved, That a Committee be appointed to bring in a bill, authorizing the Supreme Executive Council to purchase that tract of country, lying between the north boundary line of Pennsylvania and Lake Erie.

Ordered to lie on the table.

The Committee on the petition of Alexander McDowell, appointed November 3, made report, which was ordered to lie on the table.

The Committee to whom was referred that part of the message of Council, which respects the depreciation of the paper currency, report,

That in their opinion, it is become necessary to disburse a larger sum annually than the £. 20,000, directed by the act of the 15th April, 1785 ; but that the revenues of the state does not admit of its being otherwise done, than by putting a stop to the re-lending the quotas, paid into the loan-office, and authorising the trustees to receive any part of the money lent on mortgage, less than the whole, which the mortgagor may choose to discharge. By these means, the Committee are of opinion, that the whole of the emission, except £. 20,000, will be sunk in three years, the residu. in one year, without recouping upon any appropriation already made ; in conformity with which opinion, the Commissioners submit the following resolution :

Resolved, That a Committee be appointed to bring in a bill, to authorise the trustees of the loan-office to receive the whole or any part of the monies loaned by them, by virtue of the act of the 4th of April, 1785, at any period previous to the time in which it is payable, and to alter so much of the said act, as directs them to re-lend the quotas paid in by the borrower.

This was agreed to by the House : and Messrs. Fitzsimons, Findly and Rittenhouse, are appointed to bring in a bill conformable to the foregoing resolution. The

The bill to regulate auctions and vendues was presented and read,
and Ordered to lie on the table.

The Committee appointed to prepare and draught rules and regulations for the conduct of the House, report,

That the rules and regulations of the former year be adopted for the government of the House during the present year.

Ordered to lie on the table.

On motion, ordered, that the order of the day for the election of delegates, to represent this state in the Congress of the United States, be postponed until Tuesday next.

Agreeably to the order of the day, the House took up for a third reading, the bill entitled, " an act to provide for the wages of the state convention, and to defray the expences of holding the same. "

On considering the enacting clause, providing for the payment of their wages, &c. it was moved by Mr. M'Lene to amend, by inserting, that a quorum of the said Convention shall be the same as the quorum of the General Assembly, conformable to the 10th and 12th sections of the constitution of this Commonwealth.

Mr. Fitzsimons. I very much doubt, Mr. Speaker, whether the Legislature possesses the power mentioned in the gentleman's amendment. What right have we to say what number shall constitute a quorum in the Convention? The object of the law before us, is only to provide for the expence that must necessarily attend their sitting; this, sir, cannot be effected but by law, as it is a disposal of the public money; but what right has the House to form rules and regulations for that body? certainly they have none—nor could any directions be given them by law. When the measure of collecting a Convention was adopted, the House went no further than to recommend it; a law for this purpose would have been improper, and a resolution was used; as the Legislature have not hitherto attempted to make a law for regulating the proceedings of the Convention, the House will not certainly come into it now. I conceive the gentleman to be entirely wrong in his object, at least it strikes me in that light, and I cannot think of agreeing to any interference of the nature he proposes.

Mr. Kennedy conceived that the business of the House at present was to make provision for the pay of the members of Convention; and as the regulations had been nothing hitherto but by resolution, it would be improper to add any thing in the law. He did not think that the resolution for calling a Convention was in the power of the House, but now it was done, he would leave them to act as they pleased, as he wished every thing to the advantage of the people.

Mr. Glymer. The amendment, sir, is extremely foreign to the design of the present bill, and being so, it is very improper to be grafted upon it; but setting this objection aside, though it is of some weight, let me ask what would be the consequence of acknowledging the principle held up in the amendment? If the House, sir, has the right to lay down rules for the conduct of the members of the Convention, and

to order the attendance of two-thirds of the members to constitute a quorum, at the same time, and by the same rule, they may enjoin, as essential to form the Convention, the attendance of every member; and thus it must be left to the discretion of this House, whether that body shall have the power or ability to adopt a plan of federal government, for which they are expressly chosen. There is nothing in the constitution of the state, which gives to the General Assembly the power of regulating a Convention; it had not an idea of it at the time it was framed. The rules and regulations of that body must be left to themselves, and any law we may make, must in itself be void and nugatory from the very nature of the case.

Mr. *M'Lenc*. I confess, sir, when I offered this amendment, I had no expectation of its meeting with opposition from any quarter of the House; the authority of the House was used to call the Convention, and I believe that authority was as good as any that could be employed for the purpose; as to the propriety of having a Convention, there can be no doubt about it, nor do I mean to make any. The gentlemen from the city say we have no right to make rules and regulations for the government of that body. Why, sir, the amendment says nothing about it: the Convention will certainly make those themselves; they will appoint their own officers, and agree upon what mode they will conduct their business in; but then certainly this House ought to ascertain what number shall be a quorum. Or is it the wish of the gentlemen that a few of the near counties shall get together and decide upon the business before the others can attend? For my part, I can not see the reason why they should wish to have the business done in this manner, nor how they can reconcile it to that propriety which a business of this importance demands. I have no doubt but all the counties will send deputies, and that the gentlemen they send, will attend here as directed by the resolution of the late House; every gentleman will therefore see the propriety of the proposed amendment; and I mean nothing by it but to have the state fairly represented in Convention. As I said before, I hope gentlemen do not wish a few of the near counties to get together and decide before the others come down; this is surely very unfair and improper; for my own part, I believe the amendment ought to be adopted, and I hope the House will agree to it.

Mr. *Peters*. I am struck with surprise at the conduct of the member from Franklin, that he should think the House have the power to direct the Convention. That the House, and no other body, sir, has power to provide the means of paying the expences of the Convention, is clear, because the money of our constituents cannot be disposed of by any other means. But we have no right to say how many of that Convention shall be a quorum to proceed on the business for which they are elected, nor to make rules for them to act by. Suppose we should direct their attendance under severe penalties, would it be proper, or would not such an interference be absurd and nugatory? would the members elected by an authority paramount to the Legislature, the
sovereign

sovereign authority of the people, unshackled by the restraint of a previous constitution; I say, sir, would not the Convention contemn your order? I hope, sir, when the Convention meet, they will stand on solid ground, and not by the hurry the gentleman apprehends, defeat in a great measure the object of their appointment. I have confidence in them, that if but a few meet they will not, by a hasty decision, determine, because it will lose that respectability and consequence, which a full representation must give to their ratification of the federal Constitution.

Calling a Convention, sir, was recommended by the Legislature, and the sovereignty of the people has decided upon that recommendation; it is not an act of the Legislature that the Convention exists, it is the act of the people, who meeting in the several counties, have given it stability by sending deputies. No law was equal to obtain this end; the Legislature could not by their power, as defined in the constitution of this state, have accomplished this object; nothing but the consent of the people was equal to it, and this has been obtained. The gentleman must know that a vote of the Convention, could not have so much weight if adopted in the manner he has insinuated; nor can he suspect that the members will decide on the meeting of a small number, as they must deeply see the consequences of such determination; for which reason, sir, I object to the amendment, not only as unnecessary, but perfectly nugatory, if it is agreed to.

Mr. *Findly*. I believe the members of the Convention will be free to adopt whatever rules and regulations they may think proper, and that this House has not the power to subject them to any penalties for their conduct; but this is not the question proposed by the amendment; if it was, I readily agree with the gentlemen who oppose it, that the interference would be improper. But the House on a former occasion did direct the Convention as to the time when they should meet and the place where; yet I can't think any penalty could arise, if they were to make alterations in these particulars. I observed this argument against rules and regulations has gone thro' all that has been said in opposition to the motion, but I think it dont apply; for the object of the amendment was never thought by me when I seconded it, to make rules and regulations. The Assembly direct the Convention to meet at such a time; now this time happens to be so short, that the members from the back country cannot come in time; and tho' the time is about the same as ordered by the Constitution for the meeting of the general Assembly after their election, yet that is an inconvenience which may be justly complained of. I think the time for their meeting is fixed at two weeks, but in this case the inconvenience is increased, as the moment they meet they enter into the business which is already prepared for them, but in the House of Assembly the quorum of two thirds must be waited for, and before business of any consequence can be gone into, a Committee is appointed to wait on Council, and when the business is forwarded to the House, it must be read
several

several times, deliberated on, and three times considered in a bill, before it can be past into a law, which delay is safe in the one case but not in the other, because the business is of another nature. It is already recommended that they may meet at such a time, and those who meet, are not confined to any particular number to proceed to business; yet it is true when met here they are at liberty to go where they please—but still I think as to the number they ought to be restricted; there has been much done already by the Legislature in this business, and it will be right to gratify the people further; and let the number be respectable, something more than a bare majority to decide on business of this importance, so interesting to the state and to every individual: all I wish for in supporting the amendment, is fair play to be done generally to all; and we know the time is so short for them to meet in, that many of the counties cannot be represented before the others decide, and there may be no occasion for them at all. The manner in which this business may be conducted is ground of jealousy to the people, and it may be inferred from the shortness of the time, that there was private designs to carry this measure, without the assent or participation of the back counties; I say there is ground to suppose, that the near counties may go through the business without any respect to the others, and that is ground for apprehension—now by the amendment I wish to put it out of the power of a few to transact this business without the concurrence of the rest, and thereby remove that ground of suspicion and jealousy, which the people entertain of the designs of those who wish to press this measure improperly.

Mr. *Fitzsimons* thought the ground of jealousy mention by the gentleman just seated, did not exist, or was removed—the former House only recommend to the people calling a Convention, and recommended too that the Convention should meet two weeks afterward—the people, by complying with that recommendation, shew their approbation, and are not jealous of the appointment. Had the House passed a law for obtaining a Convention, the gentleman would at that time have told you that you had no right to pass a law for this purpose, and that it was a violation of the constitution, which vested the Legislature with no power that could effect it—yet that gentleman now tells you that it is proper for the House to graft upon the bill before your directions to the Convention, with which the Legislature has nothing to do. If acting by law in relation to the Convention was improper in the first instance, it must be equally so in the present; if it was urged then, that the House had not the power of calling a Convention by law, certainly the gentleman will not expect his argument to be regarded now. He will recollect a Convention was only recommended to the choice of the people, and if any of the counties had declined appointing deputies and disregarded the recommendation of the Legislature, they might have done so without censure; and here he will take a distinction between recommending a conduct to the people,
and

and attempting to tie their deputies down in a manner which the House can have no pretensions to. The amendment proposed might be recommended, but even of that there is no necessity, as the deputies will no doubt possess wisdom and integrity sufficient to direct them how to act in the great charge committed to them by the citizens of Pennsylvania.

Mr. *Logan*. The objection of the gentleman last up, is I think nearly this, that it enables the minority to keep the majority waiting, or in other words, to dictate to them and prevent them from proceeding to business; this I think is his objection, and a very sufficient reason it is against the amendment, but I see no necessity for its being proposed; for suppose it was enacted in the bill before us, it cannot be of any use because it is not binding on them; it is contrary to the constitution for the House to interfere, and it is contrary to the very nature of government, because it puts it in the power of a minority to rule the majority. What reason can any person have to advocate a proposition like this? I know a number of persons take every means in their power to defeat the adoption of the federal constitution, and I believe they will be equally indefatigable to prevent the members from attending this Convention—But Mr. Speaker, the business of forming rules belongs to that body alone; and when a majority of delegates have met I hope they will proceed in the business, as I think it their duty, and not come into a method of transacting it which will put it into the power of a minority to dictate to the majority. I should be lead to believe that these gentlemen are the advocates of an aristocracy indeed, who can recommend measures calculated only for its support.

Mr. *M'Lene*. The arguments which have been used that it is contrary to the constitution I can see no weight in, and therefore shall not reply to any of them, but with regard to the observation which is made of the distinction between the House recommending to call a Convention, and giving directions as to the number of that Convention which is to constitute a quorum when met, I shall only remark, that because the House had the right to command the people in the first, it does not follow that they have no right to direct the other; and allowing the power in one instance, is but a bad argument to contend with in the latter—however I shall merely content myself on the question with saying yes, and calling the yeas and nays; all I mean by the amendment is fair play, and that every part of the delegates of the people may assemble before the business shall be decided by a few. I have as good reason too sir, for supposing the gentlemen wish for this advantage to get their measure adopted, as they have to suspect me of a design to enable the minority to rule over the majority—but I don't wish that; I only wish fair play, and that every part of the state may be fairly represented before the business is decided on.

Mr. *Peters*. I am at a loss to perceive the gentleman's object. I would ask the member from Westmoreland, does he apprehend that the delegates have not time to come down between their election and the

first meeting? this seems to be his principal reason for advocating the amendment, and yet the time is as much as allowed to the members of Assembly. Does the gentleman suspect that they will not come with equal celerity on this occasion? and has he any particular ground for such suspicion? his argument of want of time cannot be allowed any weight, when gentlemen consider that they have as much time for their first meeting as the Assembly, and a day more.

Mr. *Robinson*. The gentleman from Franklin mentions a distinction that has been taken, but he has not replied to the substance nor stated it fairly, tho' even as he stated it, the distinction may be allowed as far as it goes—But no answer has been to this point, tho' it has been several times repeated by the gentlemen who have already spoken on the subject, “that the law would be nugatory in itself, which should pretend to bind the deputies in Convention;” and most clearly it would be so, because the power by which they are constituted is superior to those defined by the Constitution to be in the House. The calling a Convention was not specially in the Legislature; they were sensible their power did not extend to oblige by law the people to do an act never intended by the authority of our frame of government; they therefore did not attempt it by law—therefore they only *recommended* a measure which they were satisfied the general good of the United States demanded, and *this* more for the sake of preserving good order and decorum, and to point out some general rule which if the people approved they might comply with, than for any thing else, for the people alone were equal to ordering a Convention: to make any law to this effect would have been as nugatory then, as this amendment would be now if it was agreed to.—The people have shewn their highest approbation of the measure recommended, by going into the election; that is so far as I know, but I believe all the counties in the state have generally acquiesced in it, and I have little doubt of the due attendance of those gentlemen whom their fellow citizens have selected to a work of this importance. The question therefore now is, whether the House shall *pass a law* to define the number which shall constitute a quorum, and enable them to do business;—but as the Convention don't assemble under the authority of the House, but under an authority superior to the authority of the Legislature, under the authority of the people, as if they were in a state of nature, and about to form a government for themselves hereafter; if this is the case, no authority that is inferior can pretend to bind them in any of their rules or actions; it will be therefore contemptible for us to interfere in a business where this interference is beyond our reach, in a case which nothing but the necessity discovered by the people would justify them in undertaking.

Mr. *Findley* did not expect they were to go into a discussion of the theory of appointing a Convention; the less that was said about it the better, and therefore he would take no further notice of it. I own myself obliged to the gentleman from the country (Mr. Peters) for discovering how ignorant we are on a business of this kind; but what I

mean

mean at present, is to explain the words I used which he has referred to. He has assigned as a reason, that the Convention have time enough to meet in, because the length of it is the same as what the Assembly have, and a day more; it is true that is the case—but when I made the observation, I complained it was an inconvenience, that the Constitution had affixed so short a period for the meeting of the Assembly; but then the inconvenience is not so great as in the present case; because when the Assembly do meet they have to appoint Committees, and some time expires before any business of importance can be even prepared; they have to originate laws, and can do nothing conclusively for a length of time, sufficient to enable the whole to meet. Men that are the best prepared to set off on the execution of the trust consigned to them—men who have their horses ready for the journey, cannot get down in the time allowed; but there is another reason, which requires more time for these gentlemen. The prothonotaries of the counties are directed immediately to notify the members of Assembly of their appointment, but this direction is omitted in the resolution for calling a Convention, and the Delegates are left to the accidental reports they may hear from their neighbours; for no one is obliged to give them notice of their election. I say, the members of Assembly from the distant counties, cannot attend in time, that is therefore no reason that the delegates in Convention can do so. I had thought the House would come cheerfully into the amendment, in order to prevent the jealousy and suspicion occasioned by the precipitancy of the measure; give the Convention time to assemble, and I have no doubt but they will perform their duty with the prudence and discretion which they ought.

Mr. Lewis. If the question before the House, Mr. Speaker, was as is apprehended by the gentlemen who advocate the amendment, to put it in the power of the delegates of the neighbouring counties to assemble, and finish the business before the distant ones could attend; and if it was in the power of the Legislature to control their proceedings, I should not be found in opposition: But I take it for granted, those surmises are totally unfounded, and that on the ground that the people of Pennsylvania have full security in the integrity and wisdom of those gentlemen in whom they have placed an unbounded confidence, by delegating them to transact this important and interesting business. They have no doubt considered well how far each of them are worthy of that confidence, by a review of their characters and an acquaintance with their sentiments, and elected none in whom they had not a firm belief of their ability and veracity. For my own part, I have the most perfect reliance on the members to that Convention, and assure myself, they wish their meeting to be as full as possible, in order to give dignity and force to their decisions, which a partial representation must of consequence diminish. Now, as I can't see any ground for supposing the measure will be improperly hurried by the gentlemen in whom our constituents repose such especial trust, and because I see they must

must destroy, in a great measure, the desirable object in view, if any unwarrantable expedition is used, I shall not consent to instruct them in what they are to do.

Whether it is reasonable or not, that a quorum of representatives of an independent state should consist of the number mentioned in the amendment, or whether a less majority or a bare majority would be more advisable, I shall not undertake to say, because it is a matter with which this House has nothing to do, inasmuch as it particularly relates to a frame of government or constitution of society. No law declaring for a majority of two-thirds could be obligatory upon the people, though the House of Assembly are undoubtedly compelled to submit to this regulation, because when our government was framed, it was then declared and stipulated, that two-thirds of the members from all the counties who elected, should be requisite to form the existence of a General Assembly. The gentlemen who support the amendment, have not distinguished in the point they noticed; they argue indeed, that as the House did direct calling a Convention, that they have the power also to direct the regulation of that body. But this, Mr. Speaker, I apprehend does not follow; the situation of our affairs had become such, as to make it necessary for the people to seek security under some mode of government other than what obtained amongst us. A form has been laid down by the collected wisdom of a federal Convention appointed to correct the evil; nay, to save the union from impending ruin; and a mode was devised by them to make it necessary for each Legislature in the several states to declare whether they would or would not recommend to their constituents, the calling a Convention to ratify the frame of government presented them. The House had therefore a right under this exercise of sovereign authority by the people, to say whether or not they approved what was proposed to them to act upon. The House satisfied of the propriety of the measure, proceeded under the same authority to recommend to the citizens of Pennsylvania, that they delegate proper persons to a state Convention; but the House had no power to pass a law obliging the inhabitants to hold such election; they had even no right to say the people should or should not choose deputies. If the Legislature had declared they should make choice, the people might refuse; and did we say they should not, the forbiddance must be futile; it being not the fact that the Convention originated or is supported by the authority of the Assembly, so no act of ours can in any wise be binding upon them; the business came into existence under the people—the mode of interference for the Legislatures was laid down, in conformity with which the late House recommended an election for deputies, and the people have generally met as recommended, as far as my information extends; perhaps all have held an election, and when the members are met, they will be under an authority different from that of the Legislature; they will be under an authority paramount to the authority of this House—by which I would be understood to mean the supreme original authority of the people

at large, who have a right to delegate to them all powers which they judge it proper to invest deputies with, appointed to adopt and concur in a plan of government, which promises them and their posterity perfect security, liberty and happiness. The Assembly then, sir, did proper to determine on recommending, whether a Convention should be called or not, because they were required to make this decision; but they have no right to proceed further, and lay down rules and regulations for that Convention, because that body stands on superior ground to what we occupy, inasmuch as they are bound to no forms by a previous constitution.

But let me turn a moment to ask the advocates for this restriction, what may be the consequences if this doctrine is allowed? If they possess the right to say that two-thirds shall be a quorum, they possess the right of saying also that nine-tenths must be the number; nay, they may go further, and require the presence and consent of every individual. And what consequences will result from a power of this nature? it will enable the Legislature to defeat the intentions of the people; and although every county having chosen delegates, and they are disposed to ratify the Constitution, yet it is rendered impracticable by such interference; wherefore the less authority supercedes its paramount, and suppresses a measure resting upon authority superior to what itself possesses; it is not only irrational but absurd, to suppose a right of this kind vested in the Legislature; beside, if this power is acknowledged, it goes even to prevent that body from sitting at all, or to be adjourned for seven years to come, and by such law defeat the wishes of the people. I don't think, sir, that either the member who introduced the amendment, or the gentleman who seconded it, have any intentions of this nature by their motion, but I bring these consequences into view, that the House may see from them the impossibility of possessing powers which the amendment infers we have. I submit it to every gentleman on this floor, and I submit it with confidence, that the House from its relation to the people, and to the Convention, can have no right to make laws for the conduct of a superior body, and because such power involves in it a confession that we may prevent the Convention from deliberating on what they have been chosen for. It is impossible from these circumstances, that the Convention can be within the power of the House, but rests upon the people in general; it is a matter not mentioned in our Constitution, which no where assigns us such powers, nor had any of the kind in contemplation at its formation. It is impossible that the Convention can be within the power of the House, because it originates upon higher authority than a legislative; and because it would be dangerous it should, as it involves an acknowledgment of a right to defeat the supreme power of the people. It is also certain, that if the House had this power, there exists no occasion for exercising it, as the deputies to Convention are worthy of our confidence; and the inconvenience it is supposed to correct, could not take place, as it must defeat the object of those who might attempt it—

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from all which reasons I conclude, that the amendment is improper and nugatory, wherefore the House will reject it.

The question was now taken on the amendment, which was determined in the negative.

The *Speaker* asked Mr. McLean if he persisted in his call for the yeas and nays, but he declined it. However the following members rose in its support :

Messrs. *McLane, Findley, Piper, McCalmont, Milby, Beale, Clark, McDowell, Plummer and Allison*.—10.

The bill, entitled, “ an act for furnishing the quota of troops required by Congress for the protection of the western frontiers, and for other purposes therein mentioned,” was read a third time, and considered by paragraphs ;

Ordered, that it be engrossed for the purpose of being enacted into a law.

Mr. *Peters* called for the second reading of the report on the petition of Richard Wells and John Clifford, which being done, the following debate arose upon the first resolution proposed.—(See page 17.)

Mr. *Fitzsimons* would just observe, that the report stated several good reasons to prove it was in the power of the House to relinquish that share of the forfeiture, and quoted precedents to prove the House had been in the exercise of that authority, therefore it became unnecessary to repeat them. But there is a circumstance attending the case, which makes it more singularly hard than even the offence, being committed without their knowledge and approbation ; which is, that it was out of their power to prevent it, because in the course of the last spring the law was passed, while the ship was on her voyage to this port, and the owners could not in that time have appointed other officers ; the object of the law is well known to be the better collection of the revenue : but till within this year past, the revenue laws of England itself, so severe in its trade-laws, never extended so far as to a condemnation of the vessel for the offence of a single mariner. Under this law, I say sir, the vessel has been condemned ; but I presume the innocence or guilt of the owners, formed no part of the considerations of either the judges or jury, who attended only to the strict, literal words of the section, which directs the forfeiture. In England, sir, from which we draw much of our jurisprudence, they have a board of commissioners enabled to judge upon the equity of the case, and if it be found an hardship, they released unto the injured what justice required. A power of this kind it appears is vested only in the Legislature of Pennsylvania, if this is proved ; and nothing but the act of the House can remedy the embarrassment of the owners—and it is proved to satisfaction, that these persons merit the interference of the General Assembly. I hope the indulgence may be extended to them, and the next clause agreed to also, to prevent this House in future being troubled with applications of a similar nature.

Mr. *Peters*. The Commissioners were satisfied before they brought in the report, that the law was a severe one, and the case of the owners

was singularly hard, because it was a case they could not provide against, with all the human foresight of the wisest men. If the House think the severe and rigid exercise of the law, may in some cases be impolitic and unjust, they may be lead to conclude the present to be one of them; and if the House are inclined to mitigate its severity, the owners will still suffer enough to teach them caution in the choice of the officers and men with whom they entrust their vessels or their property. The question before us is not whether the owners are to lose two-thirds or one-half; for at any rate, they will be sufficiently mulct, should the loss be but the smallest sum; and the object of the law will be effected, because it is not the ruin of the merchant it seeks but his correction. Your Committee looked carefully into the law, to discover if the power of remitting forfeitures had been consigned to the executive; we examined the constitution with care also, that we might not be lead to interfere with powers vested in council; and the result of these enquiries was, that the House alone possesses the power of relinquishing forfeitures, in proof of which some argument and precedents are submitted in the report. The question that now presents is, whether this is a case to which the lenity of the House ought to be extended? I presume it is because it is the first instance of a forfeiture imposed on the innocent, and because the loss after all will be sufficient to accomplish the object of the law. However it may be political, *generally* to mulct the owners for the faults of those they employ, yet the impossibility of prevention should plead an excuse in the present, and on these considerations it appears to me a case worthy the interference of the House. I know nothing of the particulars of this business, nor what was fraudulently landed, but I observe the opinion of the judges who must have been acquainted with all the evidence that occurred; and they are of opinion, that the owners are not culpable nor privy to the fraud. I am an enemy to smuggling, and look upon it as a crime of a heinous nature, and very mischievous, not only as it affects the public funds, but injures the honest and deserving citizen; but at the same time I do not look upon it right to ruin an individual for an offence of this nature, in which he had no participation; yet at the same time did I think the owners guilty of any connivance at the fraud, I should not consent to relinquish the forfeiture. But I believe it appears very clear, that they were totally unacquainted with the landing of the goods, had no property in any thing that was run, but on the contrary, were careful to prevent any illicit practices by their frequent orders to forbid any thing being sent on shore, until it was duly entered at the custom house. I hope the House are convinced they have the right to relinquish forfeitures; that they have hitherto exercised that right, and that as this is a case peculiarly hard, they will think it but just to relieve the owners, who will still suffer sufficiently to teach them and others caution in future.

Mr. Findley. When this business was last before the House, I objected to it for the reasons I then made use of--I think still the same reasons apply

apply fully against the doctrine: But with respect to the peculiarity of the case immediately under consideration, a certificate from the Judges has been mentioned, from which, if I understand it right, it does not appear that the owners were absolutely concerned in the fraud. I confess I am not acquainted with the practice of merchants in unloading their vessels, or whether it is likely that if they had a participation in running the goods, such evidence could be brought forward in an action, not against them but against their vessel, but I think the owners must be very simple indeed, who could not act in such manner as to prevent the evidence coming forward. I believe they might contrive to have their officers or men out of the way, at least so far so as not to have them come forward and confront their own witnesses; therefore I apprehend, that a negative testimony would not be sufficient ground for the House to set aside the determination of a court of justice, and rescind the execution of their laws. The gentleman who brought in the report states a number of precedents to prove, that the House have power to interfere; but I know so far as this, that it is contrary to any thing I have ever seen done in the House. From the instances held out in the report, it seems to deny the power to remit forfeitures being in Council, but yet this application of the owners of the ship *Anna* has been decided on by them. I meant if I had time to look into this matter, and have been prepared to decide, but at present it strikes me as extremely improper for the House to have the power to make laws, and to rescind their execution. I know it is not practised in any other government, wherefore it cannot be right here.— It is no doubt at all times a hard case, that the innocent should be punished for the guilty; but it is not the Legislature who can redress the wrong. If the courts of justice have done their duty conformably with the laws, and the Council have decided upon that propriety, they both have done right. It is alleged that the right of remitting forfeitures has not been given up by the people, and therefore no part of the trust reposed in Council; but this is not the fact, for Council have decided upon these cases as within their jurisdiction; there has been more than the decisions of Council in this case; there has been adjudications of the courts, as appears by the certificate presented you. Now if our laws have been legally executed, we have nothing more to do with them, for on no pretext can the Legislature rescind the execution of the Law. They may repeal the law itself, but cannot set aside the decisions made under it. The gentleman last up owns the law has some good effect; that the owners will be sufficiently punished, and warn others from the like practices; but what if you give them the forfeited property, will the law then have the good effect? will not all owners take care to prevent testimony commencing against them, to prove a participation in smuggling? and will not they then be equally entitled to lenity with the petitioners? the consequences every member will discover, without my adding any thing further. The gentleman mentions a necessity of remitting forfeitures in some instances; but that

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this power is certainly with Council, has been exercised by Council, and exercised even upon the application of these men—therefore the House have nothing to do with it, and will refuse the resolution.

Mr. *Peters* was not satisfied by the gentleman's (Mr. Findley) arguments on a former occasion, nor with his arguments on the present occasion, that the House of Assembly had not cognizance of forfeitures. He says it is against the principles and rules of all government, for the Legislature to exercise the powers of deciding upon the execution of any laws, or to make a law and repeal the execution; how far his observation is true of other governments I do not say, but we must take this one as we find it. If there are defects in it, and an improper distribution of the Legislative and Executive powers, we cannot help it, but we must remedy the error as well as we can. Because of this defect in our government, shall the laws operate with unjustifiable and unprecedented severity? are these persons to suffer injustice, because the Constitution has not sufficiently separated the principal branches of the government? are they to labour under oppression, because evils are apprehended? I trust they are not—but for my part sir I cannot see any evil that will result from extended lenity to the owners of the ship *Anna*; for I said before, it never can be the intention of the law to ruin the innocent, but to rectify the error of the guilty, by making them examples to others. As to what the gentleman says of the decision of the court, it cannot interfere with us, because they were bound to decide according to law, and could not consequently avoid a forfeiture of the ship. It was also with great propriety that Council rejected the application, because they had not a right to relinquish the property of the state to any person. But this power is clearly in the House, because it is a part of that sovereignty of the people with which they have not parted to the executive, and we, as their representatives or Legislators, are only adequate to the object; former Houses of Assembly have decided in this manner. It is a part of the sovereignty of the people I say, which they did not part with when the Constitution was formed; this is a case not provided for by the Convention, as I would be able clearly to shew by consulting the books. This sir appears to me a hard case, and if the House join with me in that sentiment, I shall insist upon it that they have the power to redress the grievance. I am as averse to special interferences of this kind as the member from Westmoreland, and as sensible of their impropriety; the Committee were under the same impression, and went further than merely attending the particular case of the petitioners. They have offered you another resolution, in order to put this power where it ought to be, but where I insist it is not; for I am not convinced by the gentleman's arguments, either against the commitment of the petition or against the proposed resolution, that Council are invested with authority to relinquish forfeitures, tho' their right to remit fines and penalties is clear; I say they have no power to do it, but I think they ought to have, and therefore hope a law may be enacted to vest them with it in
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future;

future ; for I do not wish the House to be troubled on these occasions. I do not wish the House to adopt the first resolution, unless they think the case so oppressive as hard, and to require their interposition ; but if they are convinced of this, they will not hesitate about the right of doing it, which is clearly with us and us alone, until we transfer it to the executive, where I conceive it ought to be.

Mr. *Hindly*. The distinction which the gentleman has drawn between the powers of Council to remit fines and penalties, but not forfeitures, is perfectly novel to me, and I apprehend to most others. Council themselves do not understand it as he has defined it, because I apprehend their decision on a similar application of the petitioners proves the contrary. This being the case, it is not for us to draw a distinction not common in favour of our own powers, but rather in favour of the executive, to whom it is acknowledged it ought to belong ; but as I said before, I have not examined it as I intended for want of time ; and I apprehend it is a business of such importance, that it ought not to be slightly passed over without investigation. I think, moreover, the power recommended to us to exercise, should be vested in the executive, from the very nature of our republican government, which requires the legislative, judicial and executive branches to be kept distinct. When a case of this kind comes before a Legislature, it is always sure to find advocates, because it interests the feelings of humanity, and these feelings will always be the means of preventing the Legislature from their duty to comply with the dictates of their hearts ; from which it is clear they ought never to suffer applications of this nature to come before them at all. We see in the several instances mentioned in the report, that having once gone wrong, another and still another solicitation comes forward and is complied with. For these reasons I should be against the resolution, because I do not think the distinction good, by which it is attempted to prove we have the power, and because it is improper to explain this part of the Constitution in our own favour, as it is an improper power for the Legislature to exercise, especially as our feelings must be interested and may mislead us. I feel in the present instance as much as any one, but I conceive it my duty to go no further in relieving it, than is dictated by our frame of government ; if we once exceed, there is no knowledge where we shall stop, because any member may interest others in similar cases, by which the efficacy of our laws will be lost, and the executive will no longer have to attend to the proper execution of our laws. I have no doubt but gentlemen see plainly the ill effects that will arise from this precedent, and prevent them by refusing the resolution.

Mr. *Fitzsimons*. The House will advert to the next resolution and proviso, by which it will be seen that there is no danger of similar applications, as a dispensing power will hereafter be in the executive : But I don't wish the gentlemen to decide, until they are certain the power is in the House ; for my own part, I would be very far from giving my consent to the measure, if I believed the power already vested

ed in Council. If gentlemen mean to contend this subject, they will have time enough after suffering the bill to be brought in, and may prepare themselves against its final issue.

Mr. *Clymer*. I think the member from Westmoreland has not attended to the certificate of the judges in favour of the petitioners, as he terms it only a negative evidence, that the owners did not participate with the persons who committed the fraud. If he read the certificate with attention, he must have found that it contained the most positive testimony it was in the power of the Court to give; for they say not only that it did not appear that the owners had any participation or knowledge of the fraud, but that they exerted themselves to prevent any, by giving orders to that effect; but the gentleman is pleased to call this negative testimony; for what reason is best known to himself. He says also, that the House has not exercised to his knowledge, their right to remit forfeitures—yet the report proposes several instances in which the Legislature has exercised it. This sir, must imply that the House alone possesses the power and not council, agreeably to the conception of those Houses that remitted the forfeitures mentioned in the report, otherwise the laws which they made for that purpose were unnecessary. The gentleman seems in great pain lest similar applications should be too numerous and troublesome; but he does not observe, that the report makes provision to prevent it, by a subsequent resolution meant to supply the defects of the Constitution on this head—defects that ought to be supplied, as the practice of every government evinces clearly. In England, the innocent are protected from the undue operation of their trade laws; and justice dictates, that a power should be exercised here for the same purpose.

Mr. *Findley*. I think sir, I have been misunderstood, as objecting to the relief of persons who are unjustly oppressed by the operation of our laws, as I am against vesting this power in Council, by law. Any thing sir that we can do by law, we can undo; and there is no security but what these kind of applications may again be brought before the Legislature, therefore this method does not come up to my idea of permanency. I conceive also sir, that my expressions will not bear the construction given them by the gentlemen last up. I said the House had not exercised this authority since I had the honor of a seat in it. The instances alluded to were perhaps before the Council of Censors sat in 1784; how this may be I am not prepared to say, because I have not considered it: But I believe the Executive Council possess this power—have exercised it and given up forfeitures; if so, it is a serious question to assert, that such powers never were conceded to them by the Constitution, and that their exercise must be improper; for it will be absurd to suppose, that two bodies are vested with the same authorities, when it is sufficient that it is lodged with either of them. It will be too barefacedly done in us to assume the power, unless we are certain it is with us; as it would be absurd to say it may be lodged in the Legislature and in another body. But it is lodged in Council; such

such has been their decision, and they have remitted forfeitures; and are we to judge if they have exercised it improperly?—no; I say we ought not to determine a question of power in our own favour.

Mr. *Peters*. The gentleman seems uncertain as to the truth of the doctrine laid down in the report, and complains of want of time; but this ought not to induce the House to vote against the resolution, because they will please to consider there is still time enough before the bill can be passed into a law, to make every enquiry on the subject. Whenever the Supreme Executive Council is mentioned, it would seem, from the veneration of that gentleman, we were treading on holy ground, and with loosened shoes must walk humbly; for my part, though I have a very great respect for that body, yet I am bold to canvas a power which they may have exercised improperly; not from a desire to assume what the Legislature is not entitled to, but in order to have the matter decided beyond a doubt in future. Our Constitution sir is not perfect, for it is a human system; and if owing to this imperfection, suppose only of language, Council by mistake have exercised powers with which they are not invested, I don't see those dreadful consequences, those serious apprehensions which that gentleman contends for. If it is found that Council have not the power of relinquishing forfeitures, then it must certainly be in the Legislature, which the gentleman contends is incompatible; well what then? Does the House mean to keep this power? no; it is meant after this to place it in the executive. But this must be done by law, and he is afraid the mode is not permanent, because what is done by law may be repealed by law—why this goes against making all laws whatsoever. The gentleman mentions the Council of Censors, as if they had declared against the House for remitting forfeitures; may be they have, and I suppose they had their reasons for so doing, and I presume this House will also have theirs for any determination they make. If gentlemen at present entertain any doubts of the powers of the Legislature, they may suffer the business to go on, because there is time enough before it can be finished to obtain full information.

Mr. *Kennedy*. It appears a matter of much greater importance to the state, than to the individual who is injured; it appears to me sir, that we are taking up the business in such a way, that we ought not, because we are deciding in favour of our own powers; and what will be the consequences, if people understand the laws are to be rectified after they have been executed? if after a thing is condemned, it is to be restored, or even if after trial they have so many places to appeal to—if this is the way of doing business, people will be afraid to execute the law. But sir let us enquire as to the resolution before us—what has the application to do here? but if it is received, it must be clear to the House, that the petitioners are *circumstantiated* as they set forth under the law; and it is necessary before the House can afford them redress, that we should enquire and find the facts to be true as they allege. We must become a jury and examine into the evidence, before

before we can properly judge that these men are to be reformed. I am of opinion if theirs is a hard case, that it ought to be so; but we are not to determine on this. If they ought to have relief they must get it from the Executive Council, as we cannot be one day making the law, and rescinding it the next; if we can, the House will have little else to attend to; for I suppose every member may have some friend or some acquaintance who may be so disgustingly circumstanced, that he would wish to relieve; for when an individual solicits, he interests our feelings, and may induce us to act improperly.

Mr. *Fitzsimons*. I think the law which occasioned the forfeiture of the ship is not well understood; if it were, I think there would be less difficulty in determining the point in debate. If there was not somewhere a power to remit forfeitures under that law, it would be in the power of any person employed on board a vessel to ruin the merchant, because he could without risque of discovery, put on board a package of wares or merchandize, not worth perhaps five pounds, and by running this, forfeit the property of the owners, to the amount of five thousand, without a possibility of the owners guarding against the attempt. For sir what can the merchant know? he knows the goods he ships himself, and the goods on freight which are enumerated in the manifest; all these he enters fairly at the custom-house, and gives strict charge to the officers and sailors to do the same with any thing they may have. But suppose one of these men, with a view to save a little money, or perhaps to obtain a share of the forfeiture, deceives the owner and declines to enter what he has concealed, and afterwards goes to your naval-officer and lodges information of the fraud. Here the merchant's property is taken from him by design; and is there a government on earth that would not lessen the severity of the law; sir the despotism of Turkey could hardly inflict such injustice. Whatever strictness is necessary in trade-laws, to obtain a full collection of the revenue, yet it is requisite that a dispensing power should be somewhere lodged, to lessen their rigor on proper occasions. The question only should be, with whom is that power? The gentleman of greater knowledge in the law than I can pretend to, insists it is only in the House, others think it to be in Council; let the bill then come forward, and the gentlemen will be better prepared with their proofs to decide in which it is to be found.

Mr. *Leavis*. The clause in the law under which the ship Anna was forfeited, declares that every vessel or boat, from which any goods, wares, or merchandize shall be unloaded, before due entry thereof at the office of the collector of the port of Philadelphia, shall be forfeited and seized by the collector or naval-officer, one-half thereof for the use of the state; or in case of information from any other person, one-third. The law stops here without appointing a board of commissioners, or any other power to enquire into the peculiarity of an owner's case, to ascertain the innocent from the guilty, or to abate the rigor of the law when the proof of injustice is established. It has been said by an honorable

honorable gentleman near me (Mr. Fitzsimons) that the revenue laws of England were not until within this year so rigorous as this. He might fir have gone further, and said the laws of that kingdom even to this day are not so severe. If there was not a power fir to dispense with this severity, it would be a disgrace to England; but it is well known they have a board of commissioners, authorised to enquire and remit not only a part, but the whole property seized, if they deem it equitable.

But what is the import of our act of Assembly? why that every boat or vessel, out of which goods are landed without entry, is forfeited. Suppose there is a man, a single seaman, who has a few trifling articles on board, his own private adventure, perhaps a bottle of snuff or a roll of ribband in one corner of his chest, that is not entered, the ship is forfeited; for will any man of common sense pretend to say, either of those do not come under the denomination of goods, wares, or merchandize; or will they say that an article so secreted does not work a forfeiture, according to the strict, literal meaning of the act of Assembly? Hard indeed must be the merchant's situation, if there is no relief against so severe, unmerited, and so ruinous a penalty.

It has been said such laws were fitter for Turkey than Pennsylvania, the land of freedom; but I say it would be a dishonor to Turkey to suppose the genius of the people would suffer them to submit to restrictions so unjustifiable, without a possibility of redress. But it must be owned, that a dispensing power is necessary, and the subject for our enquiry must be where it is placed. It is said by the members in opposition, that this power is in the Executive Council; but what is the evidence to ascertain this point? The words of the clause in the Constitution which in anywise relate to it are, that the Supreme Executive Council have power to *remit fines and grant pardons*, in all cases but those of impeachments. Will any man tell me that the words *grant pardons*, apply in this case? or can it be construed into a remission of a fine? it certainly cannot; a fine being what is imposed upon a man to pay, who after a prosecution against his person for an offence, is convicted, and the corporal punishment which the law enjoins is commuted for a pecuniary one.—If under these words it is that Council claim the right of deciding, they must prove the ship *Anna* to be money of some kind or other, and that the prosecution by which she was condemned was against the owners, and not against the ship, by information in *rem*, and then they may remit the mulct in the same manner as they can pardon the corporal punishment; but unless they can make this appear, their authority will not reach the case under the term *remit fines*. And it is equally certain that it does not come under the expression *grant pardons*.—Well then, how are they invested with this authority? why the gentlemen say that Council have heretofore exercised the powers of relinquishing forfeitures; it may be so, yet it appears a little extraordinary in the gentlemen to insist on this, because when several instances are produced in the report that the General Assembly

sembly have exercised the same, they will not allow it to prove in them what they conclude it does fully in the other: you are told that the first Assembly being interested by their feelings, to do justice on an application of this nature, it served as a precedent for others, and so on in rotation—but this argument is not noticed in the observations upon the decisions of Council. The Assembly decided in a variety of instances, but these are of no weight. Council have exercised the power in one or two, and this is conclusive with the gentlemen that they are right, and we are mistaken: But this reasoning will not influence the House to determine against the proposed resolution. The arguments I used to shew this power *is not* lodged in Council, by any express words in the twentieth section of the frame of government, will lead us to enquire where this power is? as it must incontestibly exist somewhere. We will say it is in this House; but why must it be in this House? Because the Legislature is invested with supreme authority, capable of making laws in all cases but where an infringement of the Constitution would ensue; and what has been the judgment of our predecessors in this business? what has been the conduct of former Houses? Is there not fir pointed out a variety of instances, in which they have acted in the same manner the resolution before us proposes to do? Can there be a doubt that the Legislature has been from time to time in the habit of remitting forfeitures? I apprehend there is none.

But it is in the nature of our government, that the General Assembly must have this right. Whatever fir is forfeited to the state by prosecution *qui tam* for a breach of the munipale laws, or passed from the individual to the public under whom it was first obtained, by the assurance and protection which society affords, is resumed by the public, comes into the common stock, and forms part of the great bulk of property owned by the people at large. It is of no consequence how they become possessed of it; when it is there it is their property. Are Council then to cut and carve what part of it they please, and distribute, or are they not confined to act as directed in and by the agreement of the people expressed in the Constitution?—Have they then power to separate and select from this mass of property, either for themselves or others?—If they have this power, they also have the power to grant the western vacant lands at the extreme of the state, of which the state has become possessed, or grant any other property they deem just and right, from the very nature of the case. But has this power ever been given them by the Constitution? has it ever been supposed they were ever invested with it? Or is it understood to be in the Legislature? do not the Legislature exercise it on all occasions they deem meet? are not donations of land made by them to various institutions? is not every species of public property disposed of by them and them alone?

Now by the prosecution which has taken place, a part of the value of the Anna belongs to this bulk or mass of public property: I say it is no matter how it became a part of this property, whether by forfeiture

fortitude. The law is the same in the western lands, therefore it is impossible to distinguish, unless the power is given them by a vote of the people in Convention, when the Constitution was adopted, or by a vote of their representatives in Assembly—this not being the case, the difficulty is removed.

But the law is the same, regarding the property of the people, unless the constitution is amended, and it requires it. Now what is the one before us? It is a case in which, inasmuch as the severity of the law falls on the innocent, the courts of justice could not abate or remit the punishment, if it is demanded; the Executive Council is incompetent to do so, and it is not, but it would be absurd to suppose the power could be found, even if it is to be found with us. What is the objection that demands this exception? Here is a certificate from the justice, a positive evidence of the innocence of the petitioners as the vessel owners. But on the contrary, the most positive testimony against the innocence of the case could admit of, or as strong as evidence is found in court cases.—Besides the certificate, there is another strong evidence in favor of the petitioners, which is a future case, in which the law, by which the vessel was condemned, was given, and it is a case in a foreign country, without the power of the courts, and it is a case in which the law might have been applied.—It will be observed, that the report is in a case in which it relates to the particular case of the petitioners, and it will be observed, they think just; if they are satisfied as to the merits of the case, they will relinquish the part acquired by the law, and the only resolution they will decide in such a manner, as to make the petitioners, and enable the executive to interfere and enforce the laws of our trade laws, in the manner that other countries would do, and ought to do.

Mr. *McLene* would take up but a few minutes, and reduce the arguments in favor of the resolution to three things; first it was stated that this was a hard case—that it is hard in the laws to make an owner punishable for offences he had no hand in committing—if this is so, it is the fault of the law; yet every one allows, that this or something like it must be done, in order to prevent smuggling goods into the state.

Another is that there is not a power in this House nor in Council, to remit the penalty. Some of the gentlemen seem to think the power is in the House, but the gentleman from the County (Mr. *Peters*) who has studied the subject, answers that by blaming the Constitution for not vesting it in us. (Mr. *Peters* interrupted, and wished the member would let him speak for himself).

Mr. *McLene* proceeded now with regard to the question, whether the House or the Council possess the power; it was not left to him (Mr. *Peters*) to make the discovery—because when I had the honor of a seat in that body, the doubt was raised in the Council whether they

they could remit forfeitures, the opinion of the Judges of the supreme court, and of the Attorney General, were taken (I say the secret did not lay with him to find out)—The opinion of Council also was, that they were adequate to this purpose; and they never refused to decide on the ground of want of power or jurisdiction, which they were sure they had.

If I am right in this, that the Council do and ought to exercise this authority, then it is very wrong for this House to interfere in remitting, as I humbly conceive. If we claim a right of doing it here, and they exercise it there, it will tend only to perplex the business, and be one of those absurdities that are not allowable in a republic; it will be both planning and executing the laws. I hope therefore the House will not go into the resolution: I am very sorry they have suffered it to go so far—and the further we go we only encrease the mischief and bad effects that will follow. For my own part, I am in favour that is against the resolution, and hope it may be dismissed. I shall make no mention of the dispatch which has been used in this case, but I hope the House will not be hurried improperly into the business.

Mr. *Peters* absolutely denied having opposed the idea, that the Legislature only possessed the power to relinquish forfeitures, if the gentleman had understood him so, he must have expressed himself very unhappily indeed, for his opinion was, and that decided, that the Legislature possessed the power, and that hitherto it was wholly beyond the authority of the supreme executive council.

Notwithstanding what had been told of the judges having given an opinion to the contrary, he very much doubted if they had given a deliberate one. The profession of the law had been formerly his; tho' other avocations had interrupted that habit of thinking, yet if he returned to his books, he was capable of making up an opinion, which at least would satisfy himself: But for the present he absolutely declared in favour of the idea, that the power of relinquishing forfeitures was solely in the House.

The question on the first resolution was put, and the yeas and nays being called, are

YEAS. Messrs. *G. Clymer, Fitzsimons, Hiltzheimer, Lewis, Robinson, Sellers, Logan, Peters, Wynkoop, Chapman, Foulke, Upp, Ralston, Moore, Thomas, Evans, Willing, Wheeler, Lowrey, Hubley, Work, Erb, M'Lellen, Lilley, Macloy, White, Irvine, Lellur, Richards, Carson, Schott.*—31.

NAYS. Messrs. *Clemson, Hopkins, W. Mitchell, Reed, Clingan, D. Mitchell, Beale, Kennedy, Oliver, G. Heister, Kreemer, Davis, Sands, Trexler, Burkhalter, Piper, Findley, Barr, M'Drueel, Allison, Wright, Flannaken, Philips, Gilchrist, M'Line, M'Calmont, Riffe, Rittenhouse, Miley, Clark, Davison.*—31.

The votes being equal, the *Speaker* decided in the affirmative.

The second resolution was read (see page 48.) and proposed to the consideration of the House; whereupon,

Mr.

Mr. *McLene*—I shall just object on the same ground as before, that is that Council have the authority ; and unless we are convinced they have not, we ought not to grant it them.

Mr. *Peters* replied, that for his part he was perfectly satisfied that they had not the power ; and he hoped gentlemen understood this so clearly from what had been said, that they would be able to determine in favor of the resolution.

Mr. *Wyndham* said a few words which were not heard, but it is apprehended he made enquiry how far the House meant to relinquish the power of remitting forfeitures.

Mr. *Peters* informed the gentlemen, that the object of the regulation extended to maritime causes alone ; that this arose from the necessity of having a special and effectual power lodged somewhere ; and the words of the resolution were precise, and limited to offences against the laws for the regulation of trade.

Mr. *Lindley*. This is a question Sir of great importance, and requires much deliberation ; indeed, before any member gives his assent to this resolution, he must have made up his mind fully, that the right of remitting forfeitures is in the House alone. If they have any hesitation, and think the power is in Council, they will not be prepared to decide the contrary. I believe it to be a question of the most difficult nature, and very alarming in its consequences ; for as Council have heretofore exercised this power, it will bring in question what we have nothing to do with. The gentlemen will observe the necessity of a more thorough knowledge on this resolution than the former : they will also know the opinion of the Judges of the Supreme Court and other officers—the Judges opinions may be considered of weight ; tho' it is contradicted by two or three gentlemen on this floor, yet I don't wish to be guided altogether by their decisions. As this is a question of jurisdiction in which we are claiming power to ourselves, and if it is not clear that we are just by entitled to it, we must be usurpers ; we equally usurp as if we took such powers as we are certain belonged to the executive. For this reason if any gentleman hesitates at all, he will vote against the resolution—for I must be clearly informed that decisions already made in Council have been made without any certainty that they possessed the power, before I would pass a judgment against them ; if I had admitted them to the exercise of this jurisdiction, I would be well satisfied of the impropriety, or I would not wrest it from them. If the investigation has not fully convinced me, I should vote in the negative ; and gentlemen who are unsatisfied with the investigation, will be against it ; but I am satisfied it is wrong, and shall therefore vote against it ; but even if I hesitated I would vote against it, as voting on the safe side.

Mr. *Fitzsimons*. Sir the gentleman has declared to you his intentions, and be it right or wrong he will vote against it. I leave the gentlemen to do in this case what seems agreeable to himself—but gentlemen will observe that this is not the last stage of the business ; they
may

may without risque suffer the bill to be brought in and published, as there will be sufficient time to obtain full information on the right and propriety of the present measure, by those who are doubtful; but for my part Sir I am satisfied from the distinctions laid down by the gentlemen who have spoken on this side the House, that the power is in the General Assembly. As the House wish to rise early, I am surprised at this mode of delaying business, to represent a necessity for full investigation and enquiry, which may be well done in the recess, and before the bill is on a third reading; and to allege from time to time a propriety in postponing, because the gentlemen are not prepared or made up their minds, is throwing so much delay on the business, as may tend to lengthen the session unnecessarily. If the gentleman has not made up his mind and studied the subject, it must be his own neglect, because he seemed prepared for opposition on this subject ten days ago, and had been on the Committee of the last House to whom it was referred. When the subject was last before us he contended that the power was not in the House; he is surely since that had sufficient time to make enquiry how far the contrary is true. I hope those gentlemen who are not prepared to decide will agree to let it go forward, as their is still time enough to obtain further information, if it is judged expedient.

Mr. *Findley* was obliged to the gentleman for putting his arguments in better Language, but he did not like to have them changed. The gentleman has told you that I say I will vote against the resolution, right or wrong—I said I would vote against it unless I was convinced it was right; I said we were about to assume a jurisdiction, and we ought not to assume it unless we were certain that it was our right; was this saying I would vote against it right or wrong?—however I am not surprised at an observation of this kind coming from that gentleman; he also adds, that I have had time to inform myself on this subject, but sir when this subject was last before us, it was alleged that we had a right to interfere, because we had power to dispose of the public money—but it comes before us now on other ground not expected, wherefore it was impossible I could be prepared as the report has been only one day on the table.

Mr. *Robinson*. I agree with the gentleman who spoke last in the sentiment, that the House ought not to assume any power, unless they are certain they have a just claim to it; but I do not agree that the resolution ought to be thrown out, because gentlemen have doubts of its propriety. For my own part I have established a contrary rule to the one mentioned by the member who recommends to us to give a direct negative in all cases where we have a doubt. On the first introduction of business, I always give an affirmative, because if the business goes forward, a free investigation takes place, and I am enabled thereby to form a more decisive opinion—but if it is suppressed in the beginning because we doubt of its propriety, we are deprived afterward when we find those doubts removed of an opportunity to do that justice

justice which our duty demands, for which reason I think it a reasonable rule; and gentlemen who are of the same opinion, will suffer the present business to go forward, and vote in the affirmative.

Mr. *Findley* was still against voting in the affirmative, unless he was sure the House had a right to the power of remitting forfeitures and concluded that every gentleman who had doubts about it, would do well to vote in the negative.

Mr. *Kennedy* coincided in opinion with Mr. Findley, and concluded with him that the power alluded to was vested in Council, because Council had on many occasions decided on applications of a similar nature with this before the House: he was opposed to business going forward, which in itself was wrong, because it only tended to consume the precious time of the House, which as was the other day justly observed by the Speaker, comes to a great sum of money.

Mr. *M'Leve* thought the delicacy necessary to be observed on a question of power, should induce gentlemen to vote in the negative if they hesitated—because if they acted contrary, it would be telling the world that the House possessed a power hitherto unjustly exercised by Council. The gentleman from the city observed that we have had time to be prepared on this subject: I allow we have so, if it was possible to conceive that the Committee would report in the manner this has done; or if it can be said there has been time enough since yesterday, when the report was first laid on the table. For my own part I am not ashamed to declare I have not had time, tho' I do not wish to delay the public business so far as I can judge the resolution is entirely improper, and ought not to be agreed to.

The question on the resolution was put, when the yeas and nays were called, and are

YEAS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Robinson, Salter, Logan, Peters, Wyckoff, Chapman, Foulk, Upp, Ralston, Moore, Thomas, Evans, Willing, Habel, Lowry, Hubley, Work, Erb, M'Leellen, Lilley, Mackey, Wene, Liller, Richards, Canson, Schutt.*—30.

NAYS. Messrs. *Cheney, Hopkins, W. Mitchell, Reed, Clingan, D. Mitchell, Beale, Kennedy, Oliver, G. Hoister, Kremer, Davis, Sands, Traxler, Barkhalter, Piper, Findley, Barr, Irvine, Allison, Wright, Flenniken, Philips, Galekrist, M'Leve, M'Calmont, Riffe, Rittenberg.*—30.

The votes being equal, it lay with the *Speaker* to decide, which he did in the affirmative.

Adjourned until half past nine to-morrow, A. M.

SATURDAY, November 10, 1787, A. M.

Mr. *Piper* presented a petition from a number of the inhabitants of Ayre township, in Bedford county, praying to be annexed to Franklin, as more convenient to them. Ordered to lie on the table.

Mr. *Wyckoff* presented the petition of Philip Dick and Catharine his wife, taken from the files of the late House, stating his having legally tendered a debt to John Pemberton, during the late war, and lodged the

the same in the public treasury, and that now he is prosecuted for the same, and praying relief in the premises.

Ordered to lie on the table.

Col. *Hubbly* presented a report of the Committee on the petition subscribed by the trustees of Franklin College in the borough of Lancaster, recommending to the House a compliance with the prayer of the petitioners.

Ordered to lie on the table.

Mr. *M'Lene* considered himself bound to state some facts to the House, on which they might take such order as they pleased. He was asked by the Speaker if it related to the order of the day, which was the election of a treasurer for the ensuing year? Mr. *M'Lene* answered in the negative; when Mr. *Wynkoop*, from a desire to hear what laboured in the member's mind, moved to postpone the order of the day, with an intention to permit the member to relate what he was desirous of.

Whereupon, the order of the day was postponed; when Mr. *M'Lene* proceeded to relate how the House in which he lodged was attacked by a mob last Tuesday night: This being a disagreeable circumstance, the members, his fellow-lodgers, and some members of the Executive Council who were with them, had consulted and concluded upon the propriety of bringing it to the notice of the House, that they might shew their disapprobation of such conduct if they disapproved. The design of the rioters he could not ascertain, unless it was to put them in fear of their lives; however be it as it might, after the deliberation which they had among themselves, he conceived it his duty to state it to the House, and he did not hesitate to believe it would meet with their disapprobation.

Mr. *Findley* was one of the lodgers at Major *Boyd's*, and could assure the House of the truth of what the gentleman had stated—but they had gone further, and should support it by the testimony of two gentlemen who had sworn to the facts on this occasion.

Whereupon he handed the depositions to the chair of THE HONORABLE JOHN BEARD, Esq. and MAJOR ALEXANDER BOYD, which being severally read, as follows:

Philadelphia, ff.

“ On this ninth day of November, A. D. 1787, before me Plunket Fleeson, Esq. being one of the justices of the peace in and for the city and county of Philadelphia, and residing in the said city, cometh *the hon. John Beard*, who is one of the members of the Supreme Executive Council of this Commonwealth, and the said *John*, being duly sworn on the holy gospel, doth depose, testify and say, that he this deponent doth lodge with *Alexander Boyd*, and that being in bed at the dwelling of the said *Alexander*, in Sixth-Street from Delaware river, in the city of Philadelphia, on Tuesday night last, the 6th instant, and being fallen asleep he was disturbed and awaked by a confused noise, at first seeming to him to be the report of guns fired, made by riotous persons in the street, at and near the same dwelling, and heard the glass of the lower story of the house breaking,

ing, by throwing of stones against the same; that this deponent still lying in his bed and not rising, heard some persons in the street say "*here the damned rascals live who do all the mischief,*" or words to like effect. That the disturbance aforesaid, did not continue after this deponent awaked as aforesaid, above a minute, after which this deponent heard the rioters aforesaid departing hastily, as the sound of their feet indicated, towards Mulberry-Street; and that the *honorable John Smilie, and Abraham Smith, together with James M'Calmont, James M'Leane, John Piper, and William Findley, Esquires,* representatives in the general assembly of this state, do also lodge with the said *Alexander Boyd*, and were all in bed, as this deponent hath good reason to believe, in the dwelling of the said *Alexander* aforesaid, at the time of the outrage and riot so as aforesaid committed, and further saith not.

Philadelphia, ff.

"On this ninth day of November, in the year of our Lord one thousand seven hundred and eighty seven, before me Plunket Fleeson, Esq. being one of the justices of peace, in the city and county of Philadelphia, residing in the said city—cometh *Alexander Boyd*, of Sixth-street from Delaware river in the said city, Esq. who being solemnly sworn with uplifted hand, doth depose, testify and say, that on the night of Tuesday last, being the sixth of this present month of November, this deponent together with the *honorable John Smilie, John Beard and Abraham Smith*, members of the Supreme Executive Council; and *James M'Calmont, James M'Leane, John Piper, and William Findley, Esquires*, representatives in the General Assembly of the state of Pennsylvania, who lodge with this deponent, were gone to bed in his dwelling in Sixth-street aforesaid; that this deponent was fallen asleep, when about twelve o'clock at midnight, a great noise in the adjoining street awaked this deponent, who thereupon immediately *jumped* out of his bed, and raising the sash of a window towards the street of the third floor of the House, he saw a considerable number of men in the street, of whom twelve or fifteen were nigh to the door of this deponent's dwelling, and that divers of the persons, so as aforesaid assembled, did then and there speak reproachfully of the gentlemen who were lodged with this deponent, and did say that here is the House where the damned rascals lodge who do all the devilment, or words to the like effect; adding *that they ought to be all hanged*. That hearing the window rise and seeing this deponent at the window, as this deponent believes, this deponent heard one of the same persons say, *there is one of the damned rascals putting his head out of the window*. That a man who lives nigh to this deponent, at this moment coming out of this dwelling, and approaching the mob aforesaid, the persons who composed the same, ran northerly towards Mulberry-street, and this deponent saw them no more. That this deponentment was awaked as aforesaid, by the noise aforesaid, and by the throwing of large stones against the front door of his dwelling, some of which stones drove in the sash over the same door

door and fell in his entry, and one of them was at least *ten pounds* in weight. And that this deponent was not able to distinguish any of the aforesaid rioters, so as to know their names, or who they or any of them were. And further this deponent saith not."

Mr. *Kennedy* if he was seconded, would present a resolution on this subject, which he had in his possession; he was seconded by Mr. M'Calmont, and the motion was read as follows:

Whereas it appear to this House, by the complaint of divers of the members supported by the affidavits of the honorable John Beard, Esq. and Major Alexander Boyd, that on the night of Tuesday the 6th day of November inst. about midnight, a number of persons unknown, committed *a violent riot and most outrageous assault upon the dwelling-house* of the said Alexander Boyd, in which three of the members of the honorable Supreme Executive Council and four of the members of this House lodged, and were there ahead and asleep (until awaked by the said rioters) at the same time throwing out the *most indecent and violent threats and abuse* towards the said members, to the great contempt of this government, and *especially* of the said Supreme Executive Council and this House, therefore,

Resolved, That the said affidavit be transmitted to his Excellency the President in Council, and that it be recommended to his Excellency and the honorable members of the said Supreme Executive Council, to offer a reward by proclamation of pounds, for discovering of the perpetrators of the said outrage and contempt, so that they may be brought to punishment, or of pounds for the discovery of any one of them; and that this House will provide for the payment of the said rewards; and that it be also recommended to the Supreme Executive Council to direct the Attorney-General to prosecute the said rioters, and every of them, when discovered.

Mr. *Clymer* was of opinion, that this House ought not to be backward in expressing their disapprobation of such conduct as was alleged by the members who lodged at the House of Mr. Boyd; but he apprehended it was not proper to take any notice of the members of Council, because that branch of the government would attend to what respected their own body, for which reason he concluded that part of the resolution that related to them ought to be omitted.

Mr. *Peters*. I am extremely willing that the House should express every degree of disapprobation that is proper, as I think such outrage very scandalous. I have no doubt but the gentlemen on this floor are disposed to do whatever is right; but as it is a new subject, I should wish the members to consent to allow us a little time to consider what is proper to be done; some amendment or alteration may be necessary, and I leave it to the gentlemen to say how far it may answer their own views, to have it gone into with some degree of deliberation; for my own part, I am not prepared to vote, as I have not made up my mind further than that it was a very scandalous thing; therefore I hope for a little time, either by postponing or deferring the motion for another time.

Mr,

Mr. *Fitzsimons* had no doubt but the House would shew a disapprobation of the conduct of any person, who should act in the unwarrantable manner which the people are alleged to have done on Tuesday night; but he thought the business was introduced in a way not common, beside it was improper for the House to go so far as the resolution extended; if the House had cognizance of the crime, it could extend no further than to their own members, and the rioters could only be punished by them for a breach of privilege, the other matter must be left to the laws; he observed also, that the preamble did not agree with the subsequent matter, and therefore it ought to be committed; for as a solemn act of this House, it ought to be done with correctness, especially as it is to be a reflection upon the *police* of the city of Philadelphia, which is so trammelled as not to possess the power of keeping good order within its limits; for these reasons sir I shall move you that the motion and affidavits be committed.

Mr. *Clymer* seconded the motion to commit, as he observed the House were to assent to a number of facts without their knowledge, and which respected members of the Executive Council as much as the members of the House.

Mr. *McLene* hoped the House would not agree to commit, whenever a postponement of any business was proposed to the House; if it was supported by any substantial reason, he should have no objection; but the reasons now assigned were of no weight, as on this occasion the matter is simply this, that I wish the House to shew an early disapprobation if they disapprove; and I lament that it was so long neglected, I did think of bringing it before the House yesterday, but it seemed that we had other business which occupied all our time and prevented me; now the gentlemen say, they will not wish to delay the business; if any thing is improper in the language of the motion, amendments can be proposed at the table, and all proper alterations can be adopted. I think the House cannot adopt proper measures too soon on this occasion, nor can I be so uncharitable as to think it is the wish or intention of any gentleman in this House to give it the go-by.

Mr. *Lewis*. It is sometimes impossible to make up one's mind on an important subject the moment it is offered to consideration: The one now introduced has occupied very little of any former attention of mine, and I must own I do not feel a wish to be compelled to a decision, until I have had a little more time to examine how the question stands. I observe the gentleman has in some degree blamed himself for the delay of the business to this time; he who has had so much time to consider, will no doubt acquiesce in indulging others with the same; at present, I labour under some difficulty about the propriety of our interfering, if it is to be considered merely as an outrage; the laws of the land are fully adequate to its punishment; but if it is to be considered as a breach of privilege, the punishment must be by the House; if this is the point of view in which it is set, I think the offenders ought to be enquired after and punished severely: be the crime

crime which it may, I am clear it deserves correction, and no doubt but what there will be a proper disposition to inflict it.

The *Speaker* would just suggest to the House, if the complaint was understood to be a breach of privilege, the propriety of ordering the Attorney-General to prosecute, when the cognizance was only in the General Assembly.

Mr. *Fitzsimons*. If this House fir enters into a resolution, which is to affect the police of the city of Philadelphia, and to affect it in a very disagreeable manner, on what grounds are we to stand? is a partial affidavit—an affidavit perhaps insufficient of itself to convict any person before any of your courts of justice, to be the cause of such decision? The gentleman does not think it a matter of little consequence to affix a stigma upon the citizens, without hearing one word in their defence, or without receiving that kind of evidence necessary to support the charge of the veriest petit larceny. The recommendation of a prosecution to Council, should be extremely well-grounded, before it is entered into, and the House ought to have ascertained the facts, and be well satisfied of the truth; if this is not done already, the House must see the necessity for committing in order to effect it. The gentleman says he hopes we have no wish to give the business the go-by—that is not the question sir, but we are determined to meet every thing fairly, and do what on due deliberation shall be judged proper; these are the reasons which occur to me to prove it necessary to commit; but I can assure the gentleman I have no intention to give it the go-by. I only wish to do what is right, and until last evening, I never heard that such a thing had happened.

Mr. *Findley* was of opinion, from the precedents in parliament which he had consulted, that nothing more was necessary than the complaint of a member rising in his place; and that offering the affidavits of the two gentlemen who had sworn to the insulting language offered us, was wholly out of the question, or more than was necessary, in case of a breach of privilege. I say from the custom of parliament nothing more is necessary, than for the members to complain of the insult; the affidavits were taken in order to make the charge more permanent. I only mention this, because it has been thought that an enquiry into the truth of the facts stated, should take place by a Committee before the House decided.

Mr. *Fitzsimons* had been absent when the business was introduced and knew nothing of the affidavits, or of any complaint made by the members; he just came in when the motion made by Mr. Kennedy was reading.

Mr. *Peters* wanted to know what to do; he had so little time to consider, that he could not make up his mind, on what would be the proper mode to pursue this business in; he was very far from the wish insinuated by the member from Franklin (Mr. M'Lene) of giving it the go-by—but surely the gentleman might agree to allow him time to consider how to act, and suffer the motion to be committed.

mitted for that purpose, as well as to examine how far there was a necessity for amendment.

Mr. *Fitzsimons* wished it to be committed in order to have the facts ascertained from the evidence of the members.—He apprehended the gentlemen need not fear but the House would act with propriety in their case, after they had considered what that propriety was.

Mr. *Clymer* was struck with the inaccuracy of the style in which the motion was framed, and he suspected that the necessary accuracy could not be obtained by those amendments proposed at the table. The gentleman who introduced the matter, and he who pressed the immediate adoption, will both recollect that it is not the act of an individual, but the act of the House if adopted; and that neither of them would be specially answerable for the ill manner in which he conceived it to be drawn.

Mr. *Kennedy* did not wish to hurry the matter, but he thought the object of the motion was pretty well understood; but if it was so inaccurately drawn as to make it necessary to refer it to a Committee for correction, he hoped the gentleman who discovered its faults might be appointed as one of the Committee.

Mr. *Clymer* hoped he should not.

Mr. *McLene* was not particularly concerned in the matter, and therefore would say no more, but the House might commit or neglect it altogether as they saw fit. He should only just mention, that he introduced it to know if the gentlemen were equally solicitous with himself in supporting the honor of the House—as an individual he was regardless of the insult, but the objection that the members of Council ought not to be noticed, who were equally insulted, he did not understand; however he believed that body would take measures to support their own dignity, and had indeed began; therefore he apprehended a delay of the business in the House would be telling the world, that this House was not inclined to secure the safety of its members from the violence of a mob.

Mr. *Fitzsimons* begged leave to ask the gentlemen whether Council had not actually determined on the subject before the House; he understood they had—but no doubt that gentleman has more certain information.

Mr. *McLene* declared he did not know that they had.

The question on commitment was taken, and the yeas and nays were as follows:

YEAS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Robinson, Salter, Logan, Peters, Winkop, Foulke, Upp, Ralston, Moore, Thomas, Evans, Willing, Whelan, Lewis, Hubley, Work, Erb, Hopkins, H. Mitchell, McEllan, Lilly, Reed, Clingan, Trexler, Riffe, MacLay, Carson and Sebett.*—33.

NAYS. Messrs. *Chapman, Clemson, D. Mitchell, Beale, Kennedy, Oliver, G. Hesser, Kremer, Davis, Sands, Burkhalter, Piper, White, Landly, Barr, Irwin, McDowell, Allison, Wright, Flennagan, Phillips,*

tips, Gilchrist, M'Lene, M'Calmont, Lollar, Richards, Rittenhouse, Mily, Clark and Davison.—30.

Whereupon it was referred to the following gentlemen to make report :

Messrs. Peters, Clymer, Lollar, Rittenhouse and G. Heister.

Mr. *Fitzsimons* thought it would be proper, and absolutely necessary, that the members who complained of the insult should express precisely what abuse they had received, in order that the Committee might be able to state their report upon some positive foundation, and that the House might the better determine how far they were right.

Mr. *Findley*, one of *Major* Boyd's lodgers, informed the House, that he had already mentioned the statement to be just as declared by the member from Franklin (Mr. M'Lene.) There were two other members that lodged with them, who might declare also.

Mr. *M'Calmont*, another of the *Major's* lodgers, said he agreed also to the general statement which had been made to the House.

And Colonel *Piper*, the other of *Major* Boyd's lodgers, joined and corroborated the statement as made by his colleagues ; he added, that he was asleep, but awaked by the noise of the stones thrown, as he apprehended against the doors and windows, and in the morning when he got up he found the door much hurt, and the glass broke to pieces that was over the door, and lying all strewed in the entry, with a number of stones that had broke through.

He also observed, a few minutes after, that the clock struck twelve.

The report of the Committee appointed to report rules and regulations for the government of the House, read yesterday, was read a second time and adopted.

The report of the Committee on the petition of Alexander M'Dowell, was also read a second time, and

Resolved, That a Committee be appointed to bring in a bill to authorise Council to draw an order on the treasurer for 79l. 10s. to be paid the said Alexander.

Ordered, That Messrs. Barr, M'Dowell and Clark, be a Committee for bringing in a bill agreeably to the resolution.

The Committee on the petition of insolvent debtors made report, which was by special order read a second time ; whereupon,

Resolved, That a Committee be appointed to bring in a bill to afford relief to Charles Buzelot, James Young and Antonie Basline, respectively, agreeably to the prayers of their petitions.

Resolved, That a Committee be appointed to bring in a bill for the purpose of extending to Thomas M'Intire, the benefit of the several acts of Assembly made for the relief of insolvent debtors.

Ordered, That the Committee who made the report, be directed to bring in bills accordingly.

Agreeably to the order of the day, the House proceeded to the election of a treasurer to this state, and the ballots being taken, it appeared that David Rittenhouse, Esq. was unanimously elected.

The

The Committee to whom was referred this forenoon the motion respecting the insult offered to some members of this House, made report by their Chairman, Mr. Clymer; who observed, that the Committee had shewn a disposition to pay every attention to the subject, yet had not delayed for a moment making their report. The report was read as follows:

The Committee to whom was referred the motion made by Mr. Kennedy, respecting the insult offered to some members of this House, propose the following resolution:

Whereas complaint has been made to this House by James McCalmont, James McLene, John Piper and William Findley, Esquires, members thereof, that on the night of Tuesday the 6th instant, the House of Major Boyd, of this city, in which they resided, was riotously attacked by a number of persons to them unknown, and themselves abused and insulted by reproachful language:

Resolved, That such outrageous proceedings is highly disapproved of by this House, and is a breach of the privilege of its members.

Resolved, That this resolution be transmitted to the honorable the Supreme Executive Council, together with the affidavits which the said members have thought proper to produce on the subject, and be requested to issue a proclamation, offering such rewards as they may deem necessary, for apprehending the perpetrators of the said outrage, in order that they may be brought to punishment.

Mr. Peters thought it would be more honorable to the gentleman to have the House decide upon that complaint, as coming from themselves; but he confessed he was at a loss to say whether the insult was a breach of privilege or not, because he did not know whether they were abused for their conduct as members, either in the *present* House or in the *former* one, or whether the abusive language alluded to them, or the members of Council who were their fellow-lodgers.

Mr. McLene desired the latter part of Mr. Kennedy's motion, and the latter part of the report to be both read, and then enquired what reason had induced the Committee to leave out that resolution, which directed Council to order the Attorney-General to prosecute.

Mr. Clymer. It was the idea of the Committee that Council would order it without direction: and indeed it appears to be a matter of course, in consequence of offering a reward for the apprehension of the rioters.

Mr. McLene was not satisfied with the reason assigned by the gentleman, and therefore moved that a resolution to this effect might be added to the report of the Committee.

Resolved, That it be also recommended to the Supreme Executive Council, to direct the Attorney-General to prosecute the said rioters, and every of them, when discovered.

Mr. Fitzsimons submitted, with deference to the House, whether it would not be best for the Legislature to attend to what related to themselves, and not interfere with the executive in directing them

to perform what it will be their duty to do without any directions.

Mr. *Peters* declared the reason for not mentioning in the report a prosecution for the outrage, was because it was conceived more proper to leave the punishment of that to the laws, which were fully adequate to execute justice on the offenders.

Mr. *McLane* did not mean to press the amendment, but he conceived it would be very proper for the House to express fully their disapprobation; and if they think the rioters ought to be punished, it must certainly be proper to order a prosecution.

Mr. *Lewis*. Mr. Speaker, I am decidedly against the amendment proposed by the member from Franklin, and I would beg leave to offer my reasons for this opposition. The offence being of such a nature as to require us to take unusual means to obtain a knowledge of the offenders, and to make it perfectly adviseable to offer a reward for their apprehension; and the disposal of all public monies whatsoever being entirely with us, is the ground upon which I conceive the report of the Committee stands. It therein is stated, that a number of persons, by abuse and otherwise, had been guilty of a breach of privilege, and in order to do justice to ourselves and punish the perpetrators, Council are called on to offer a reward; but when they are apprehended, before whom are they to be brought for trial? and under what authority are they to be punished for their outrage? Does the gentleman think the Attorney-General can be opposed to them for the crime mentioned in the report? I am sure sir he cannot. The Attorney-General cannot prosecute before any of your courts of justice, an offence which doth not belong to the cognizance of the courts, therefore *he* cannot prosecute the offenders for the crime mentioned by the House in their directions to Council.

The report brings forward a charge against the rioters, and this House are desired to go further, assent to the charge, and order the prosecution. I shall not mention now the inconsistency there appears, in ordering Council to perform what it must be their duty to do. If, as perhaps is the case, the offence may not amount to a breach of privilege, for the treatment the gentlemen received perhaps was not offered to them in consequence of their conduct as members of *this House*, but on some other account. In this case it amounts to no more than a high misdemeanor, though of a very serious nature, being an attack upon a person's dwelling at midnight. Now let me ask how is this to be prosecuted? I should imagine the report states every thing that it is possible for us to do; at least it requires every thing that we ought to do. The mean is adequate to the end; a reward is offered, and there is no doubt but that it will be equal to the object in view. There is no doubt either but what the officers respectively will do their duty when called upon to do it, without a special order of the Legislature.

The gentleman recommends to the Supreme Executive Council, that they order the Attorney-General to prosecute; this sir is what I hope this nor any future House of Assembly will ever do. For it is suffici-

ent that a man at the hour of trial has to defend himself against the injured laws of his country, without the extraordinary weight lying upon him of an order of the Legislature to his condemnation. It has been considered (and justly considered) that an individual appears before the tribunal of justice in unequal circumstances to what the system of our laws and constitution require, when the weight of a prejudication of the representatives of the state, and the mandate of Council lay against him. It must be in the recollection of every gentleman, the precedent of Timothy Matlack, late secretary to Council. I recollect well being of counsel for him, that we complained much, and with reason of a similar order of a former House. I thought it justified me from the weighty manner in which it was brought forward, to object to the trial from the prepossession which the judges and jury must have received by that improper interference. The judges were of opinion with me, that an individual has not a due equality, when he has not only to defend himself against what appears before the Court in the common course of law, but against all the weight of the most solemn and deliberate act which the Legislature can offer against him.

If the offence amounts to a breach of privilege *fir*, the attorney general cannot prosecute, because the House itself will punish the perpetrators. If it is not a breach of privilege, but an infraction of your laws, those laws will punish with all severity.—Is the gentleman apprehensive that Council will not do their duty? or does he suspect the attorney general? has that officer ever given him reason to believe he shrinks from the weighty trust reposed in him; no *fir*, I dare answer for him he will execute that trust with his wonted abilities on the present occasion, without being stimulated by orders either from this House or from the Executive Council. They will be prosecuted to conviction, if the evidence will support the charge, without adding the solemnity of a decision of the Legislature against them; a decision I contend which no persons ought to have to combat with on their trial, be they great or be they small.—But be they great or be they small, no man ought to lay under a stigma imposed by the Legislature, until convicted in due course of law; it is unjust, and I sincerely hope it never may be again attempted in this country, or any country whatsoever.

Mr. *McLene* hoped the House would agree to the amendment he had proposed, and not refuse on account of the argument made use of by the gentleman last up, which if allowed must prove too much, as he says, he contended against the improper weight placed over the late Secretary of Council on his trial; but I apprehend there is a great difference between the settlement of an account, as was his case; and a violent and outrageous assault upon the members of government, as the present case. I say if his argument is allowed of any weight, it goes against the resolutions and report altogether; for if a person is not to have the resolution of the House against him, ordering the Attorney General to prosecute, of what signification is it
that

that you offer a reward to apprehend him ? It amounts to nothing to say the rioters may be brought before the House ; for as the House mean to rise in a few days, it is probable it may not be sitting when they are apprehended : He did not know what was meant to be done by the report, or why the resolution he had proposed to add was left out by the Committee ; he hoped the gentlemen had not an intention to screen the offenders from any sort of punishment whatsoever.

Mr. *Lewis* declared he had no intention to screen any man from due punishment, who had been guilty of crimes either against an individual or against the honor and dignity of government ; nor did his arguments leave room for such an illiberal and unfounded insinuation. To say that they prove, (if they prove any thing) that the whole proceeding is wrong, I deny ; and I trust every person who hears me will join in that sentiment. I will also say fir, that if *that* gentleman's arguments prove any thing, they prove that he either did not understand me or entirely and wilfully perverts what he did understand.

I said that the disposal of the public money belonged to the Legislature in all cases whatsoever ; that it was properly our duty to provide for, and direct a reward for the apprehension of the perpetrators of the outrage ; and as the violence was levelled at members of the Legislature, it became right to call on the Executive Council to offer such rewards ; but after having done this, in which I conceive at the present we are justifiable, shall we proceed further and add to the weight which is already against these men, that solemn and tremendous act by which we ordered the prosecution ?

I considered the offenders guilty of crimes of such magnitude, that they merit punishment severely ; but I did not think there was any ground to suppose the attorney general would be less alert in performing his duty, and rendering the state those services for which his abilities so eminently qualify him, on this occasion, than on the many others entrusted to his care ; nor did I think the Executive Council, from any thing which we have seen in their former conduct, needed to be urged in the defence of their own dignity, or in attending to the due execution of the law.

I submit it again, and I submit it with confidence, whether my arguments can be tortured into the meaning which *that* gentleman was pleased to give them ? and with equal confidence I submit to this House whether the awful weight of violated laws are not sufficient for the worst of men to combat with ? and whether it would not be subversive of good government to exert such an unusual and objectional measure against any man, as a vote by the Legislature of the nature that is now proposed ?—Because it is putting a man upon his trial with the prejudice of a pre-determination made by the supreme authority of the land, and the minds of both judges and jury are warped accordingly : Because every man must be lead to conclude the person so circumstanced is guilty

ty of what is alleged against him, and guilty too in the most unequivocal and decided manner. Need I ask what probability in such case there can be, of an acquittal even if the suspected person is innocent?

Now if the facts are as thus stated, and which I believe is undeniable, and consequences so unjust may result from them, can an advocate for such dangerous measures be found within these walls? If the persons are guilty of the crimes brought against them and are convicted, they will be punished according to those laws which they have violated. If they are apprehended and brought before this House for the insult offered against its dignity, by the attack upon one or more of its members, the House will punish them in an exemplary manner, be they who they may; for it was not only a riot, but an outrage of an aggravated nature, to attack a dwelling at that dead hour of the night; and instead of wishing to screen the perpetrators, I wish they may be punished in an exemplary manner, to prevent such dangerous practices in future; but I do not wish to direct the attorney General or Council how to act, as in the one case, namely, breach of privilege, they cannot interfere, and in the other it would be unwarrantably cruel, and contrary to the magna charta of our Liberties laid down in the Constitution.

Mr. Fitzsimons. There is in this case, Mr. Speaker, a clear distinction that the member from Franklin does not seem to take into consideration. The person who shall be taken in consequence of the proclamation which the House is about to direct, will be brought before the House, who are competent to inflict a proper punishment for the breach of privilege; consequently we should have no occasion for the Attorney-General in this case. If they are to be punished for a violation of the laws, it will be a matter of course that the Attorney-General prosecutes on behalf of the Commonwealth; and is there any ground for apprehending a neglect in that officer? there can be no occasion for us to direct Council to stimulate him to do his duty. It must be a reflection on that gentleman, if the amendment is added to the report of the Committee, therefore I believe the House will not agree to it. My worthy colleague has stated further and weighty objections, which no doubt will influence the House to reject the amendment, if the member who made it refuses to withdraw it.

Mr. Peters conceived it would be more honorable for the gentleman to have an unanimous vote of the House on this occasion, than suffer a division; for which reason he hoped the motion for the amendment would be withdrawn, as he believed in that case the report of the Committee would be generally agreed to.

Mr. Robinson marked the same distinction which had been drawn by the members from the city, and concluded that the House must be persuaded that the motion was nugatory in one case, and improper in the other, and moreover it must be grounded on a suspicion of neglect both of Council and the attorney general, which was unwarrantable, as neither had hitherto given cause to believe they were regardless of their

their oaths—he hoped the gentleman was so far convinced of this, as to induce him to withdraw his motion.

Mr. *M'Lene* looked upon himself entitled to say a few words : He observed gentlemen had insisted much upon its being more honorable for him to have an unanimous vote of the House, than a divided one ; he would only observe it was not his honor as an individual which he sought, but the honor of the House ; and as for the hint thrown out, that the resolution was laying blame on the Executive Council and Attorney-General, he did not see it in that light, nor had he any doubt but they would do their duty. He only wanted to know the disposition of the House, and whether they want these people to be punished or not ; as for the breach of privilege, if the House allow the outrage to be of that nature, he hoped they would take care to inflict a proper punishment ; what respected the violation of the law, he was willing to leave the law to redress.

The question on the amendment was now taken, and the yeas and nays being called, are as follows :

YEAS. Messrs. *W. Mitchell, Reed, D. Mitchell, Beale, Kennedy, Oliver, G. Heister, Kreemer, Davis, Sands, Trexler, Burkhalter, Piper, Findley, Barr, M'Dowell, Allison, Flenaken, Philips, Gilchrist, M'Lene, M'Calmont, Lellar, Rittenhouse, Miley, Clark.*—26.

NAYS. Messrs. *G. Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Robinson, Salter, Logan, Peters, Wynkoop, Chapman, Foulke, Upp, Ralston, Moore, Thomas, Evans, Willing, Wheler, Lowrey, Hubley, Work, Clemson, Erb, Hopkins, M'Lellen, Maclay, White, Irvine, Wright, Riffe, Carson, Schott, Davison.*—34.

So the amendment was lost.

The question was now taken on the report, which was unanimously agreed to.

The report of the Committee read yesterday, relative to the purchase of a tract of country on Lake Erie, was read a second time, and ordered to be postponed.

The bill entitled “ an act for the regulation of auctions and vendues,” was read a second time, and in part considered by paragraphs,

When some difference arising upon a small amendment, it was proposed by Mr. *Logan* to postpone, as the gentleman did not seem prepared to decide upon it.

Mr. *Fitzsimons* thought the gentleman did not speak for himself, when he assigned that reason for delay—because if he recollected right, that gentleman had been heard more than once upon this subject when it was before the former House.

Mr. *Kennedy* thought many of the members were unacquainted with the subject, and therefore he would join in the postponement, but would move that it be made the order of the day for Tuesday.

Mr. *M'Lene* declared in favor of the motion, and complained of the bill as a grievance to the country people if it passed as it now stood ; whereupon,

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Ordered,

Ordered, that the further consideration thereof be postponed, and it be made the order of the day for Tuesday next.

The following bills being brought in engrossed, were severally compared at the table, enacted into laws, and the Speaker directed to sign the same :

“ An act to provide for the wages of the members of the state Convention, and to defray the expences of holding the same.”

“ An act for furnishing the quota of troops required by Congress for the protection of the Western frontiers, and other purposes therein mentioned.”

Ordered, that Mr. Lilley and Mr. Clingan be a Committee to affix the seal to the laws which have or may be enacted by this House.

Mr. Lollar from the Committee of accounts made report, that the Committee, agreeably to the direction of the House, had proceeded to burn the paper money, and hoped to finish the £. 20,000 by Thursday next—they had destroyed as follows :

6400	bills, of 20s. each, is	£. 6400
4000	do. 15s.	3000
4400	do. 15s.	1100
4000	do. 2s/6.	500
4000	do. 1s/6.	300
4000	do. 9d.	150

Amounting to £. 11,450

Which was ordered to be entered on the minutes, as part of the report of that Committee.

Adjourned until Monday, three o'clock, P. M.

MONDAY, November 10, 1787, A. M.

The House met pursuant to adjournment.

A petition and remonstrance from several owners of land at and near Wyoming, was read, remonstrating against the act for confirming to the Connecticut claimants, the lands by them claimed in the county of Luzerne, and praying that an adequate compensation may be given them for the lands which may be awarded to the Connecticut claimants, by impartial and disinterested persons, and that the payments be made by yearly instalments; and on motion and by special order, the same was read a second time;

Ordered, That it be referred, together with all the papers on the files of the late and present House of Assembly relative to the same subject, to the Committee appointed on the Wyoming business, to report thereon.

Mr. Clarke presented a petition from ninety citizens of this state, praying the price of unlocated lands in the back parts of this state may be reduced.

Ordered to lie on the table.

Mr. Logan presented the petition of John Conrad Latour, praying a compensation for his services and expences during the late war.

By special order the same was read a second time, and referred to the Committee on claims.

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The petition of Philip Dick and his wife, read November 10, was read a second time, and referred to the same Committee.

The petition from the inhabitants of Ayre Township, in Bedford County, read on Saturday last, was referred to Messrs Hubley, Davison and Irvine, to report thereon.

Mr. *Clymer* made a further report from the Wyoming company, which by special order was read a second time ; whereupon

Resolved, that from the first day of March next until the first day of September, the Commissioners appointed under the act for confirming the Connecticut claims in the County of Luzerne, do receive all such claims for lands in said County coming under the descriptions in the act as admissible, and which may not have been presented to them before the expiration of the term now limited by law for that purpose ; and that a Committee be appointed to bring in a bill accordingly ; whereupon

Ordered, that the Wyoming Committee be a Committee to bring in a bill conformably to the foregoing resolution.

The report of the same Committee, read November 3 (see page 42) was read a second time and adopted ;

Ordered, that the last named Committee bring in a bill accordingly.

Mr. *Fitzsimons*, Chairman of the Committee on ways and means, had just received from the Comptroller General a statement of the finances of the Commonwealth of Pennsylvania, which he would lay on the table and submit to the House, whether they would order it to be printed, as it was lengthy and must take up some time in getting executed, it might not be better to rest it in the hands of the Committee, to enable them to report early. The House directed, that 150 copies should be printed for the accommodation of the members.

On motion of Col. *Hubley*, the report on the petition of the trustees of Franklin College was read a second time ; whereupon,

Resolved, that a Committee be appointed to bring in a bill, to vest the public store in the town of Lancaster, and two lots of ground on which the same is erected, in the trustees of Franklin College, for the use thereof.

Ordered, that the Committee who made report, prepare a bill accordingly.

The report of the Committee read November 9, relative to the purchase of a tract of country on Lake Erie (see page 52) was read a second time.

It was moved by Mr. *Fitzsimons* to postpone the resolution it contained, in order to introduce the following :

Resolved, that the Supreme Executive Council be authorised and requested to obtain and lay before the General Assembly, a description of the lands lying between the north boundary of this state and Lake Erie, with an estimate of the sum necessary to accommodate
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this state: He thought a resolution of this kind would be better than to go at once into the purchase, without knowing what it was to be, or whether the ability of the state could accomplish it. The mode he proposed was no doubt more rational, especially if the House considered the present deranged situation of our finances, which perhaps could not enable them to make the purchase, even if it was agreed to be necessary.

A small amendment was made in the resolution to bring it into form, when it was agreed to postpone; and afterwards this resolution was adopted.

Mr. *Fitzsimons* presented to the chair a bill, entitled "an act to incorporate the subscribers to the plan for erecting a permanent bridge over the river Schuylkil, at the western extremity of High-street of the city of Philadelphia," which was read the first time, and

Ordered to lie on the table.

Adjourned until to-morrow, half past nine, A. M.

TUESDAY, November 13, 1787, A. M.

The House met pursuant to adjournment.

A petition from a number of inhabitants of the county of Berks was read, praying that a part of the lands set apart for the endowment of public schools, may be granted for the benefit of a public school in the borough of Reading. Ordered to lie on the table.

The Committee appointed to inspect the files of the late House of Assembly, made a further report, which was read; and on motion and by special order, the same was read a second time; whereupon,

Ordered, that the report on the petition of a number of the inhabitants of the borough of Reading, read September the 14th last (see Vol. 1. page 31.) be referred to Messrs. Peters, J. Heister, Trexler, M'lene and Schott, to report thereon.

Ordered, that the bill entitled "an act to enable aliens to purchase real estates within this Commonwealth, and to lend money upon mortgages and other securities at a reasonable interest," be referred to Messrs. Lewis, Willing and Findley, to report thereon.

Ordered, that the report read in the late House September 27 last (see Vol. 1 page 101.) on the petition of Humphrey Fullerton, be referred to the grand Committee of claims.

The petition of John Penn jun. and John Penn esquires (see page 44.) was read a second time, and referred to the same Committee.

Agreeably to leave given the bill entitled "an act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and flood-gates in repair, and to raise a fund to defray the expence thereof," was presented to the chair, read, and

Ordered to lie on the table.

Agreeably to the order of the day, the House proceeded to the election of Delegates to represent this state in the Congress of the

United

United States, when the *Speaker* read over the following list of gentlemen in nomination :

<i>John Armstrong, jun.</i>	nominated by	<i>William Lewis,</i>
<i>Anthony Wayne,</i>		<i>James Moore,</i>
<i>James R. Reed,</i>		<i>Alexander Lowrey,</i>
<i>Gen. William Irvine,</i>		<i>Thomas Clingan,</i>
<i>Gen. Richard Butler,</i>		<i>William Findley,</i>
<i>Samuel Meredith,</i>		<i>Thomas Fitzsimons,</i>
<i>Samuel Miles,</i>		<i>William Will,</i>
<i>Gen. Daniel Heister,</i>		<i>Peter Trexler,</i>
<i>William Bingham,</i>		<i>Samuel Evans,</i>
<i>David Jackson,</i>		<i>James M'Calmont,</i>
<i>Temple Franklin,</i>		<i>George Logan,</i>
<i>John Bayard,</i>		<i>Benjamin Rittenhouse,</i>
<i>Robert Whitehill,</i>		<i>James M'Lene,</i>
<i>William Barton,</i>		<i>Robert Lollar.</i>

Mr. *M'Lene* begged leave to withdraw his nomination of Robert Whitehill, which the House agreed to.

Mr. *Findley* requested he might also be suffered to withdraw General Richard Butler, as he was informed the gentleman was ineligible, which was also complied with.

The ballots being taken, the election appeared as follows :

<i>General William Irvine,</i>	65	<i>James R. Reed,</i>	34
<i>Samuel Meredith,</i>	64	<i>General Daniel Heister,</i>	32
<i>John Armstrong, jun.</i>	38	<i>John Bayard,</i>	26
<i>William Bingham,</i>	34	<i>Samuel Miles.</i>	3

Whereupon it was declared, that the hon. William Irvine, Samuel Meredith, John Armstrong, William Bingham, and James R. Read, esquires, were duly elected.

The Committee appointed November 10, on the petition of John Erb and Robert Stevenson, made a report, which was read, and by special order recommitted.

Agreeably to the order of the day, the House resumed the consideration of the bill for the regulation of Auctions and Vendues, which was postponed last Saturday.

The sixth enacting clause being under consideration,

Mr. *Kennedy*. This is a bill that for some time past has been under the consideration of the Legislature, and published for the consideration of the people of the state by the late House : I say it had taken some time in the course of the last year to make it known to the people. This bill appears to me to have one or two objects which I mean to state ; first, to be considered as a revenue law, that is for the particular purpose of raising a revenue to be applied for the support of government ; and second it may be considered as an act to regulate trade in certain articles which people import from abroad. If it is to be considered as a law for raising a revenue only, I shall be against it, because it is raising it in a mode neither equal nor just ; and is raising it from

a few people, whose necessities compel them to sell their property. I find the present bill is meant to extend the act still further, and to subject the people in the country to the same inconvenience, and where not the least benefit can be derived to the state or people at large; as it stands I observe every man who wants to sell his property, must either apply to the licenced auctioneer, or go to the prothonotary for a special permission to dispose of his own. This is a thing that will subject those who are under the necessity of selling, to very great difficulties; and it has been confessed, that little or no revenue is expected to be obtained from it; for my part I see no good reason why the state should derive a revenue from these people at all, for all taxes ought to bear equally, and not on the poor and necessitous only.

The *Speaker* informed the member, that a particular clause of the bill was under consideration, and it was therefore improper to go into the general principles of it.

Mr. *Kennedy* went on, and observed to the *Speaker* he meant to apply his arguments not only against the clause, but to support a motion he was about to make, that the bill should be recommitted, and brought in upon principles that might more generally meet the approbation of the members; he objected to the trouble occasioned by the bill, as well as the money to be paid for a licence; if he was seconded, he would move the recommitment.

Mr. *Clymer* observed, that the gentleman's arguments went against the bill altogether. He should be glad if the gentleman would tell the Committee what principles the bill must be grounded on, to meet his ideas, and then the House would be able to judge of the propriety of recommitting.

Mr. *McLene's* object was to have the bill confined to the sale of merchandize only, and not any part of a man's real estate or chattles; the reason had been already given why such a law as the present should not be extended thro' the state, because it was an additional inconvenience without any advantage. He repeated his intention was to confine the regulation of auctions solely to merchandize, and not suffer it to embrace any other object.

Mr. *Fitzsimons* hoped this bill would undergo a little further discussion before the House destroyed it, either by postponement or recommitment, if that was the intention of the gentleman who had spoken on this occasion. He wished the House would attend to the objects of the bill before them, which were two fold: first, it had in contemplation to destroy a monopoly, a thing inconsistent in free republics, and especially so under the Constitution of Pennsylvania, which expressly declares against them in any shape or case whatsoever. The other was, to equallize a duty which at present is borne and paid by a small number of the citizens of this place; and what adds to their oppression is, that it is borne by the most necessitous. If the gentleman wishes an alteration in these particulars, I shall readily concur with him in the commitment, and join in the introduction of a bill to
 repeal

tepeal all the laws on this subject. The observation made on this latter point by the member from Cumberland, is a just one, and such as I consider worthy a member of this House; for I think it the duty of every gentleman to equallize the burthen which of necessity must be borne, without a partial attendance to what may be the particular interest of the county he has been sent here by; as I conceive every member on this floor stands to represent the whole state. It is a fact well known, that the whole revenue arising from sales by auction, is raised off the citizens of Philadelphia, and applied to the general use of the state; and this not only from sales of merchandize, but of every article of personal property, as well as real estate, houses and other improvements. At different times the revenue so raised has amounted to £. 8000 per annum; and I think as well as my recollection serves, that for the present £. 4000, but suppose it to be but £. 100 or £. 1000; it is equally unjust. As to the monopoly I consider it a scandalous one, and I hope no one can be found here to advocate it; if a monopoly can be applied to raise money for the use of the state from the inhabitants of one or two towns, it may be managed so as to extend further; and no part of the government is secured from an unjust combination against it.

It was not I apprehend with a view to embarrass the country, that the clause extended the collection of duties on these sales into the country, nor was it with a view of raising much revenue, but merely to maintain that equality in an article of revenue which the citizens of the same state should observe—it was not intended to accumulate trouble and expence to the inhabitants of the country, tho' it might be just, that every person should be equally subjected to that, who had occasion to dispose of the same property by the same mode with those in the city; for no good reason can be offered why articles should be taxed here, that are wholly free one mile off. The gentleman says it will be an inconvenience to the people in the country; I believe sir it would, but gentlemen should at the same time that they consider themselves, consider their fellow citizens, who have long suffered under the undue weight of an unjust tax a more unjust monopoly, destructive of their rights as citizens, and a direct violation of the Constitution. If the state cannot from the lamentable situation of her finances, relinquish the fund, then extend the principle and let all equally contribute. But the latter is such a disgrace to us, that it ought not to be continued any longer.

Mr. Findley allowed the monopoly was a great ground of complaint, and ought to be removed; but with respect to the other object which the gentleman had mentioned, namely, extending it, in order to equallize the burthen, was correcting one fault by creating another; for what advantage could the city derive from the extension, when it was agreed by the gentleman that little or no revenue would arise from the measure? No revenue can be obtained from the country, but certain and great inconvenience results to the inhabitants—much greater
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inconvenience than is sustained by the citizens of Philadelphia ; because in many instances the farmer will have to ride forty, fifty, or sixty miles to the auctioneer, or to the prothonotary for a licence to act himself as one for his particular occasion. I am not though against extending the operation of the law to any place where such sales exist, as exist in Philadelphia ; I mean ready money sales, if there are any such in the state, or any such may hereafter be : I will readily acquiesce in extending the law to them ; but so far as my information goes, there are none such—for it is pretty well known to the members of this House, that is the country members, that if a vendue does take place, the things are mostly sold on credit, as there is not money in the country to pay for them without time to look round.

The gentleman considers the tax a partial one, because it is raised off this city ; the same objection would lie against the impost which is collected here also, and cannot be derived from any other place, because we have no other port at which it can be obtained. The same argument as for raising impost, apply for raising revenue in this city, or goods sold by auction, because it is here only where it can be raised ; no vendues, that is ready money vendues, exist in any other part of the state : It is therefore making a law *sir* without an object. But *sir* it is not Philadelphia alone that pays the duty ; are there no goods brought in by foreigners and sold in this city ? are not lands which are out of the city sold here ? I say are all the goods that are sold the property of the citizens of Philadelphia ? I think they are not. But do the citizens consume all the goods that are sold at vendue ? I apprehend they do not ; and it is probable that but a small part are used here. A great quantity is consumed in the country, and I think the far greater part ; the duty then, like the impost, is collected of the consumer, and like the impost too *sir* can only be collected in Philadelphia, therefore there is not good ground for complaint that the city contributes this sum—nor is it proper to extend the operation, in order to equallize, when there exists nothing for them to act upon.

Mr. *Robinson* would agree to the recommitment, if it was made a necessary condition to have the duty struck off altogether, which I think if the extension is not agreed to, ought to follow. With this view I rise to answer some of the objections stated by the member who was last up, which I think very unfounded. That gentleman has observed that there is the same objection against an impost, as there is against a duty on goods sold at auction ; that this city is the only port, and consequently the only place where the one can be derived from, and this is also the only spot for the other ; that the consumer pays them both ultimately, and so on.

Now what is said of the consumer's paying the duty on impost, I conceive may be right ; but in the other case if he traces the circumstances himself, he will draw a conclusion with me that it is not the fact. When goods are imported into a country where the quantity introduced and the demand are equal, the consumer must pay the
impost,

impost, because he must purchase that part which is imported for him, and the merchant adds this with the first cost and charges of his goods, as well as a profit on the whole, to the bill. But suppose these goods are in excess, and more than the demand, the merchant sends them to vendue and pays a duty of two per cent. for the sales, is it added again upon the amount of the first cost, &c. and charged to the purchaser, who repeats the same to the consumer? Suppose for a certain quantity of goods; £. 100 worth for example, on being sold at vendue, will bring beside that sum the amount of the duty or two per cent. in this case the buyer may be allowed to pay the tax. But if instead of bringing that sum, it should bring two per cent. less, which is far more likely, it does not admit of a doubt in the mind of any man, but what the duty falls upon the seller; thus the operation of the duty on goods sold at vendue, must always act as a grievance on the necessitated seller, but can never affect the consumer; for so far are goods sold in this manner from bringing the first cost, that they seldom exceed two-thirds, and frequently sell for one-half of that sum. This being the case, it must be undeniable but the duty falls upon the citizens of Philadelphia, who are now, if not the only, yet they are the principal sellers in this mode; and are the necessities of the people a proper object of taxation in the opinion of any member of this House? I hope they are not; and that it will be readily agreed to strike the duty off altogether.

Again sir—if it is unjust when applied in the aggregate, it must be a higher injustice when that injustice is only sustained by a part of the community. If it appears in this light to the members of this House, they will not refuse to join, either in extending the principal and lessening the injustice, or forego the revenue and let every part of the state be equally free in the disposal of their property.

Another observation on this business was made on a former occasion—that the regulations of auctions was essentially necessary in this city; but if so, it is our duty to grant the citizens this convenience, without making them pay unreasonably for it; it is our duty to do what may add to the happiness of each and every part of them, without charge—and why should this single instance be raised up in contradiction to the many acts of convenience we are daily called upon to make? But I observe the danger of once permitting a measure of this kind to be adopted, how difficult it is to get rid of it, especially when it is obtaining a considerable revenue, which if relinquished must be supplied out of funds of each particular county—Mr. *Robinson* proceeded to recapitulate the rise of this business; the intention first was to prevent the depreciation of the Continental paper money, which vendues were supposed to be extremely inimical to. The number of auctions were first suppressed, reduced to one, and a variety of goods prohibited from being sold in this manner on any account; after some time it was found necessary to extend the number of auctioneers to three—then a small duty was added of 1 per cent. and so increased

until sufficient to raise from the city and its neighbourhood £. 8000 per annum; the cause of the first regulation has long since ceased. Thus a bad precedent once set, is not easily prevented from influencing others, and the difficulty of correction becomes every day greater, and nothing can prevent its continuance until the whole revenues of the state are collected from one devoted city. It would be better for the city to make the state a present annually of that sum, than let the principal be once established, that duties may be collected here which no other part of the state can or ought to pay.

Mr. Findly. I apprehend sir that I have been misunderstood, in applying the argument on the impost. I did not mean that the impost and the duty on vendue sales were in every case alike. I said that ready money sales were only to be met with here, and that commercial objects were in the same situation.

The gentleman says there is no convenience in selling goods with 2 per cent. duty upon them; but I think there is a great convenience in having ready money vendues to go to, with articles which a person may want to dispose of; it is certainly a great convenience to turn whatever is to be disposed of into ready money, and it is a convenience which the inhabitants of no other part of the state possess; and I have been informed it is a convenience which the importers frequently benefit by—as to the question whether it will be proper to dismiss that revenue altogether, it cannot I apprehend be decided upon, until the Committee of ways and means are enabled to provide for there deficiency.

I object still sir to the extension of the law, because there is no prospect in extending them to where they do not exist. We can only take commerce where it is, and we can only take auctions where they are. It is not my wish tho' sir to except ready money vendues wherever they may be found; nor is it my intention to continue the monopoly which is unjustifiable.

Mr. Clymer. The gentleman who has just sat down, shews great willingness to extend the duties which have been hitherto confined to this city and neighbourhood, to all parts where ready money vendues are to be found, and at the same time tells you that there are none such within the state. The extension then which he professes himself so much in favour of, can have effect; and the operation of the law is to continue partially as heretofore, upon the city of Philadelphia. He has said further, that the same objection would lie against the import that does against this duty. There is something in that argument, that might apply, if only a part of the goods imported were subject to the payment of impost—because then only that part of the community would suffer that paid it. I see for my part no other affinity between them; and as for the people paying the duty on goods which they purchase at vendue, it is too absurd to merit an answer! but even were it possible, the country people do not pay it, because it is not the practice of country shopkeepers to buy at that place, but rather of merchants, whom they can confide in to furnish them punctually with those parti-
cular

cular goods which they have a demand for. The reverse of this is true, for it is the people of this city who chiefly make purchases at vendue, and it is the inhabitants who buy again of them; so that if the consumer paid the duty, still it must be the citizens of Philadelphia.

Mr. *Kennedy* begged leave to repeat what he had said at the beginning of the debate, after recapitulating the object of the law which he had then stated; he went on to observe—the principal object of the bill seemed to him to be the regulation of trade, and that was the only object which they should consider; he would by no means consent to extending the law to the country, because of the inconvenience and trouble it would occasion, but he thought the duty ought to be given up in the city, though he would still have the auctions under regulations.

Mr. *Fitzsimons's* object was to draw from the members their opinions on this subject, that the Committee might prepare a bill that should be agreeable. The monopoly it appeared to him was agreed on all hands to be an intolerable grievance, and what the House would cheerfully remove.

There is another point which if settled now might save time hereafter. The vendue laws inflict a fine or duty on a particular part of the state, this inequality ought to be destroyed; but if it is supposed necessary to continue a duty for the regulation of trade, the city from whom that duty is raised, ought to receive the benefit of it; but I should conceive it possible to regulate auctions without taxing the sellers for the regulation. If the gentlemen are agreed on these points, it will not perhaps be a difficult matter to frame a bill that will give general satisfaction.

Mr. *Findley*. The gentleman from the city (Mr. Clymer) has taken objections against my assertion, that the country paid the greater part of the duty on vendue sales. When I said the country, I meant the shopkeepers, and not the individuals. If this fact is disputed, I should appeal to the vendue masters, who can testify the truth of it.

Mr. *Lowrey* wished to strike out from the bill, that part which exacted a tax on real estate, either in town or country; after this alteration was made, he was of opinion the law ought to stand without complaint; he wished to tax merchandize, because foreigners sold such here, and took our money in return out of the country.

Mr. *Clymer's* argument went to shew, that if the consumer paid the duty, it must be the citizens of Philadelphia, for the country was furnished by other means than the purchase of goods at vendues. There might be a few shopkeepers from the country who bought some articles at vendues, but they were, he was pretty confident, but very few.

Mr. *Lollar* believed if the gentleman would examine, he would find that number pretty large; indeed he knew many who purchased there,

Mr. *Clymer* must be excused from believing the shopkeepers numerous, who attend this city to purchase the goods with which they supply

ply their stores and customers in the country—he could not be persuaded it was the fact.

Mr. *Robinson* thought with Mr. Clymer they were few—but whether they were few or many, it was all one; for no one was, he believed, any longer contending that the consumer paid any part of the duty. The question on recommitting was put and agreed to, and the bill was accordingly recommitting. Adjourned.

WEDNESDAY, November 14, 1787, A. M.

The House met pursuant to adjournment.

A memorial from Lewis Hallam and John Henry, in behalf of themselves and others, the comedians commonly called the American Company, was read, praying leave to bring in a bill for the purpose of repealing so much of the laws of this Commonwealth as prohibit dramatic entertainments. Ordered to lie on the table.

A memorial from the college of physicians of Philadelphia, was read, praying an act may be passed for checking the improper use of distilled spirituous liquors within this state. Ordered to lie on the table.

A petition from Thomas Bond and others, late officers in the American military hospital, was read, praying a similar allowance of lands with other officers of the army.

Ordered to be referred to the grand Committee of claims.

A petition from James Pettygrew, and Blackall William Ball was read, setting forth that they have lost the certificates given them for the depreciation due on their pay, and praying new ones may be given them in lieu of those which they have lost, and by special order referred to the last named Committee.

A petition from 150 inhabitants of Wayne and Dorry townships, in the county of Cumberland, was read, praying they may be excused from the payment of the tax assessed on them in the years 1781 and 1782. Ordered to lie on the table.

The petition from a number of the inhabitants of the county of Berks read yesterday, was read a second time, and referred to the members from that county to report thereon.

Mr. *Lollar* from the Committee of accounts made a further report, that they had burned and destroyed

800 bills of 20s. is	£. 800
4000 do. 15s. is	3,000
4800 do. 10s. is	2,400
	<hr/>
	6,200

Which in addition to what was reported on Saturday, 11,450

Amounts to £. 17,650

Mr. *Lollar* observed, that the revival of the militia law seemed to be a necessary business, and he hoped would be attempted by the present House; he would therefore move, that a Committee be appointed for that purpose, who should also be directed to report a bill if they thought proper; whereupon, Ordered,

Ordered, That Messrs. Clymer, Peters, Evans, Lowrey, Kennedy, Findley, M'Lene, Lollar and Schott, be a Committee to revive the present militia law, and report a bill for the better regulation of the militia of this Commonwealth.

The Committee appointed November 3, on the petition of Ann Nedrow, made report, that the petitioners beg leave to withdraw their petition, and that they have leave accordingly! .

Ordered to lie on the table.

The Committee appointed November 8, on the petition of the American Philosophical Society, made report, which was read, and agreed to as follows :

Resolved, That a Committee be appointed to bring in a bill for the purpose of granting to the American Philosophical Society acres of unappropriated lands, as a fund for the laudable purposes set forth in their petition.

Ordered, That Messrs. Wynkoop, M'Lene and Rittenhouse, be the Commissioners for the purpose aforesaid.

The Committee appointed November 8, respecting the late election of representatives for the county of Bedford, made report, which was read, and adopted as follows :

The Committee to whom was referred the representation of the judges of the first election district of the county of Bedford, setting forth, that in drawing the votes a ticket appeared, in which the names of John Piper and Jacob Saylor were mentioned as members of Assembly, but the ticket not being cut according to law, it was not counted, yet was caused to be filed with the other ticket, by means of which said ticket not being counted, said Jacob Saylor and Abraham Cable had an equal number of votes, which would not otherwise have been the case ; and as it is the opinion of the Committee, that an election ought not to be set aside for so trifling a neglect, as not cutting a ticket according to law, at least where no fraud appears to have been intended, they offer the following resolution :

Resolved, that Jacob Saylor is duly elected a representative in the General Assembly for the County of Bedford for the ensuing year, and that he be directed to take his seat accordingly.

The Committee to whom was referred to the Wyoming business, made a further report, which was also adopted as follows :

The Committee on the affairs of the county of Luzerne further report, that in their opinion it will be expedient to introduce into the proposed bill, a clause relative to the compensations, to the dispossessed Pennsylvania claimants, to the following effect.

That the Executive Council appoint two persons, one on the part of the state, the other on the part of the said Pennsylvania claimants, on the recommendation of them, or any considerable number of them, which two persons shall choose a third.

That the said three persons shall be commissioners to examine into the value of the lands for which compensation is to be made, and certify

tify the same to the board of property, who shall finally determine the same.

That the said claimants shall severally have an option, to accept a compensation in the residuum of the donation lands, or in any other public lands within the old or new purchase, not reserved for the use of the Commonwealth, or otherwise in certificates to the amount, payable in instalments and bearing interest.

On motion of Mr. *Fitzsimons*, seconded by Mr. *Findley*.

Resolved, that a Committee be appointed to bring in a bill to enable commissioners therein to be named, to lay out in the improvement of the roads between the city of Philadelphia and the western parts of the state, the monies arising from the lottery lately drawn in pursuance of the act of Assembly for raising, by way of lottery, the sum of 42000 dollars, for improving the public roads westward of the city, and towards improving the navigation of the river Schuylkill, passed the 15th March, 1784.

Ordered, that Messrs. *Fitzsimons*, *Wynkoop*, and *I. Heister*, be a Committee for the aforesaid purpose.

Colonel *Hubly* presented a bill, entitled "an act for vesting the public store-house, and two lots of ground in the borough and county of Lancaster, in the trustees of Franklin College, for the use of the said institution," which was read the first time, and

Ordered to lie on the table.

Mr. *Peters* presented, agreeably to order, a bill entitled "an act to vest Richard Wells and John Clifford the share or portion of the ship *Anna*, lately forfeited to this state," also another entitled "an act to vest in the Supreme Executive Council of this state a power to remit, either in the whole or part, any forfeiture or forfeitures accrued to the state under the laws for the regulation of trade.

Mr. *Fitzsimons* presented another, entitled "an act to alter and amend an act, entitled an act for erecting and opening a loan office for the sum of £. 50,000," which were read severally for the first time, and

Ordered to lie on the table.

On motion of Mr. *Fitzsimons*, the bill "to encourage the erection of a permanent bridge across the river Schuylkill," was read a second time, and without debates.

Ordered, to be transcribed, and in the mean time printed for public consideration.

On motion of Mr. *Willing*, the "act to enable the owners of certain meadows to repair the banks, &c. and raise a fund to defray the expence of the same," was also read a second time, and without debate.

Ordered, that it be transcribed, and in the mean time printed for public consideration.

Adjourned until to-morrow half past nine, A. M.

THURSDAY, November 15, 1787, A. M.

The House met pursuant to adjournment.

Mr. *Clymer* presented a memorial from the hon. Francis Hopkinson, Esq.

Esq. was read, stating that a bill had been introduced to the late House for lessening the salaries of the various officers of government, from the President downward ; that after much consideration and debate, the same was thrown out, and the salaries of all were suffered to continue as before, but that of the judge of admiralty, from whom two fifths was taken ; in consequence whereof he prays, that when this House shall pass an act for the regulation of fees, a clause may be inserted for vesting the judge of the admiralty with the fees of his office, which are now made payable to the treasury ; and on motion and by special order, the same was read again, and referred to Messrs. Clymer, Hubley and Piper, to report thereon.

A petition from David Hillyer, late quarter-master's serjeant in the invalid regiment commanded by Col. Nicola, setting forth that he had not received the gratuity of 80 dollars promised to those who continued in the service until the end of the war, and praying this House to direct payment thereof to be made to him ; by special order it was referred to the grand Committee of claims.

Col. *Will* presented the petition of Thomas Preist, praying this House to grant him an annual sum of money, to enable him to carry the mail between the City of Philadelphia and the western counties of this state.

Ordered to lie on the table.

Mr. *McCalmont* presented a proposal from John Skinner, engaging on the part of himself, his heirs and assigns, to keep and maintain the state high way in the same described, in good repair, provided that he, his heirs and assigns, are by law excluded from the payment of taxes.

Ordered to lie on the table.

A petition from a number of manufacturers and others, dealers in coal, was read, praying that the measure of that article may be done by the sworn measurer of the city alone, or his deputies.

Ordered to be referred to Messrs. Fitzsimons, Will and *McLene*, to report a bill if they deem it necessary.

The petition from 150 inhabitants of Wayne and Derry Townships, in the county of Cumberland, was read a second time ; and it was agreed to be committed.

Whereupon the *Speaker* nominated Messrs. Kennedy, Lollar and Oliver.

Mr. *Kennedy* objected, because he was so well acquainted with these people's distresses, as to interest himself for their relief ; it was in the nature of man to sympathize with the unfortunate, which might affect that rigid decision justice required.

Mr. *Logan* received the petition a very proper subject for the Committee on ways and means.

Mr. *McLene* hoped that it would not go to that Committee, as the Chairman had represented the other day to the House, that no report was to be expected from that Committee this session—He thought it would be more respectable to appoint a special Committee, otherwise referring it to a Committee who could not report, would be

a clear and sure way to get rid of the application altogether.

Mr. *Logan* had no intention of giving it the go-by in referring it to the Committee on ways and means, nor could he conceive what suggested such an idea to the gentleman—he thought it a proper subject for the Committee on ways and means, because that Committee ought to know what reliance they are to have on every part of the state, both to pay the long out-standing arrearages, as well as the new taxes which must be imposed to make up that deficiency.

Mr. *Fitzsimons* just mentioned to the House, that when he said the other day the Committee on ways and means could not report, he had done it upon the presumption that the House would rise on Saturday, which at that time they appeared determined to do; but since it had become probable the session could not terminate so soon, he hoped that Committee would report, and that with all possible dispatch—he did not give this information with a view to have the petition referred to that Committee, because he conceived it an improper subject for them, and because it might delay a much more important concern.

Mr. *Wynkoop* just gave his opinion, that when any part of a county was exonerated on any account whatsoever from the payment of a quotaed tax, the county at large ought to pay up the deficiency.

Mr. *Findley* thought that rule would not hold on all occasions, because whole counties were sometimes exonerated, as during the late war; he was of opinion it would be better to submit the petition to a special Committee.

Mr. *Wynkoop* still thought he was right, because the exposed situation of a county was considered and quotaed according to those circumstances, perhaps not more than £. 100; this ought by no means to be abated.

Mr. *Findley* just observed, that a great part of some counties were depopulated, therefore must be exonerated from the payment.

Mr. *Piper* knew that to be the case with the townships in Cumberland that now petitioned, as well as some part of Bedford county.

Mr. *McLene* thought the difference of opinion which gentlemen had already shewn, was enough to evince the necessity of referring to a special Committee; the worst thing that applied against the petitioners, was not asking in time; for if they had it was certain they must have been exonerated with the others.

Mr. *Findley* thought the subject ought to be well considered, on account of precedent, lest it opens a door for claims improperly, or shuts a door against just and reasonable applications—wherefore hoped a special Committee might be appointed.

Whereupon it was referred to Messrs. Lewis, Logan, Wynkoop, Kennedy, Findley, Lollar and Oliver, to report thereon.

On motion of Mr. *Schott*, the petition of Lewis Hallam and John Henry, read yesterday, was read a second time, and moved to be committed.

Colonel *Piper* hoped the house would employ their time better than in considering this subject. — The question, shall it be referred to a Committee, was put and lost, only sixteen rising in favor of it.

The Committee on the petition of the inhabitants of Ayre township, in Bedford county, made report, that the prayer of the petitioners cannot be granted. Ordered to lie on the table.

The Committee appointed November 2d, on the petition and remonstrance of a number of the inhabitants of the township of Moyamensing and Passyunk, against the proposed road from Gray's ferry, made report, which was Ordered to lie on the table.

The Committee on the petition from west Chester, in the County of Chester, also made report—as did the Committee appointed yesterday on the petition from a number of the inhabitants of Berks County; both of which reports were Ordered to lie on the table.

The report presented yesterday on the petition of Ann Nedrow, was read a second time; whereupon,

Resolved, that the petitioners have leave to withdraw their petition.

Mr. *M'Dowel*, agreeably to leave given, reported a bill entitled “an act authorizing the Supreme Executive Council to draw an order on the treasurer of this state, for the sum of 79l. 10s. in favor of Alexander M'Dowell,” which was read, and Ordered to lie on the table.

Mr. *Wyunkop* reported a bill entitled “an act for vesting—thousand acres of unappropriated land in the incorporated American Philosophical Society, held in Philadelphia for promoting of useful knowledge” which was read, and Ordered to lie on the table.

The Committee appointed for the purpose, reported a bill entitled “a supplement to an act, entitled an act to alter and amend an act, entitled an act to remedy the defects of the several acts of Assembly heretofore made, for regulating the elections of justices of the peace throughout this state, and to establish a permanent mode for holding such elections, and to authorize the justices of the peace of the city of Philadelphia to hold the courts of record of the said city, and to make further provision for the due election and return of justices of the peace elect,” which was read, and Ordered to lie on the table.

Mr. *Clymer* reported a bill entitled “a supplement to an act, entitled an act for ascertaining and confirming to certain persons called the Connecticut claimants, the lands by them claimed within the County of Luzerne, and for other purposes therein mentioned” which was read, and Ordered to lie on the table.

The Committee appointed for the purpose, reported a bill entitled, “an act for the relief of Thomas M'Intire, James Young, Anthony Bastide and Charles Luzelot, insolvent debtors, confined in the gaol of the city of Philadelphia,” which was read; and on motion and by special order, the same was read a second time.

Mr. *Fitzsimons* declared it a very unpleasant thing to oppose an act of mercy, yet he thought in a country where the laws were so lenient towards debtors, that few applications need come before the legisla-

ture, as particular laws were not only improper, but almost unnecessary. If the Committee had stated any thing to the House to shew the necessity of the present bill, he had been absent at the time, as he did not remember any thing on this head, he would therefore call upon them for information; but there appeared among the names mentioned in the bill (though he was personally unacquainted with them all) one that was very little deserving the attention of the House; he had heard his character from report only, and might be altogether misinformed—but if what had been related to him was true, the House would hardly judge it proper to interest themselves for such a person: It was Mr. McIntire, who if report speaks true, has injured an honest man very severely, and abused the confidence of his worthy friend. The House must be well satisfied that the man deserves their mercy before they extend it to him, to the greater injury of the gentleman who is already a severe sufferer by his misconduct.

Mr. Will apprehended the others being old cases, and reported on at the former session, that the House were well acquainted with them, and satisfied of the propriety of interfering. In the case of Mr. McIntire, he states his present situation to be occasioned by some heavy and unforeseen losses, as well as the failure of another person who has injured him, so much as to render him incapable of making payment to his creditors; he is willing to deliver up all his property on oath as an insolvent, but he cannot come under the bankrupt law, as the debt for which he is confined was contracted before that was passed.

Mr. Peters thought as much justice was due to the creditor as lenity to the debtor. The person objected to he knew but little of; he had known him during the war, and that he exerted himself in favour of the American cause; it was this that induced him to present that person's petition; he knew nothing of the circumstances of his debts, but if it appeared that he had been guilty of immoral practices, to the injury of his creditors, he conceived the House ought to take time to satisfy themselves on this head—and if they are found well-grounded, the man deserved punishment, but if they are nothing more than reports, the House will not refuse him that lenity which he may be deserving of.

Mr. Fitzsimons was totally unacquainted with the man, and had only heard from general report, the circumstances which he had related; the particulars of which were, that this man was entrusted with a considerable sum of money, I believe 10,000 dollars, by a gentleman in New-Orleans, to invest in a certain manner which was directed—instead of applying the money in the manner prescribed to him, he entirely neglected it, first went to Europe and afterwards to India. On his return here, the creditor sent a person to him, but he could obtain no satisfaction, though he had a great property with him at the time.

Now if the money is really spent, and the property gone, I agree with the Committee that it is of no use to keep him confined, and if it is only to extend the insolvent act to him, I shall not object. But

really

really the number of bankrupts which every day stain our public newspapers, and the prodigious number who have recourse to the act of insolvency, and are liberated at every court of common pleas, I think should make the Legislature tenacious of extending lenity further than what merely related to the person of the debtor, if it operated to destroy the property of the creditor; he did not mean to be particular in this case, if the man had really no property left.

Mr. *McLene* thought it would be better to publish this bill, without Thomas *McIntire*'s name, because if the reports that had been mentioned were well-founded, the House would not discharge him—and if his name was printed in the bill and erased on the third reading, it might wound his feelings; nor would he add distress upon distress; if the report was unfounded, his name might easily be added hereafter, and it is best to err on the side of clemency.

Mr. *Kennedy* was of opinion that there was no occasion to strike out the name, because these things were reported on hearsay only; his name might go out, and if it was true as reported, his creditors might come forward and confront him.

Mr. *Peters* thought also it was right to let the name stand for the reason just mentioned; for his part he did not wish to hurt the feelings of any man, but if the man is guilty of the crime supposed, he deserves his feelings to be wounded.

Mr. *Lewis*. I am against the proposed amendment sir, as stated by the honorable gentleman from Franklin. Our constitution and humanity both require, that the person of an unfortunate debtor shall not be confined in gaol, after he has relinquished to his creditors all the property he has acquired. Thomas *McIntire*, with several others, I find have applied to this house for the liberation of their persons. The Committee who were appointed to make report, have enquired into their cases, and we have no right to suppose they have been more deficient in the performance of their duty on this occasion than any other. They have made report to the House, that they find the prayer of the petitioners both reasonable and just, and therefore proper for us to grant. A bill since has been brought before us, and we are desired to strike out the name of one person; let me ask upon what ground is the amendment proposed? is it because a member has heard that this man is a bad man? I apprehend it is sir; but is this vague and uncertain report equal, nay superior to the report of your Committee, who I say made full enquiry consonant with their duty? it is also feared, that if his name should be published in the bill, and be hereafter struck out when his creditors come forward and demonstrate to you that he is the practising and artful villain, then it may tend to hurt his feelings; if sir, he is such a character, I care not how much his feelings are hurt; but if he is not, and I am inclined to believe he is not, or your Committee would not have recommended him to us, how are you to act after erasing his name? Will his creditors know any thing of his application for release, if the bill is published without his name? and can they come forward

forward to shew the impropriety of liberating him if they have objections? or to shew the truth of the facts alledged if they are facts? The Committee have further informed you sir, that the man cannot avail himself of the bankrupt act, because his debt was contracted before it was passed, and that law having no retrospect, cannot provide for his relief. The benefit of the insolvent laws cannot be administered unto him, because the debt far exceeds £. 150, nor can he serve a notice upon the creditor as enjoined by that law, because his creditor lives in a distant country. From all which circumstances, it must be clear to every gentleman that he stands beyond relief from any existing law. If the bill goes forward with his name in it, we shall afterward be able to decide on his case in such a manner, that our duty and justice may require; but if his name is omitted, the evidence against him cannot come before us, and the same objection will lie on any future application; from which considerations, I hope sir the amendment may be negatived, and the bill be published as it now stands.

Mr. *Fitzsimons*. My worthy colleague tells you, sir, that the Committee have given you information of having made the necessary enquiry, and therefore recommend the person to your attention; if this is the case sir, I shall by no means object to the bill going forward as it now stands; but have the Committee mentioned their having called the creditors forth, or given them notice to meet, and heard them on the subject; if they have stated such matter, I am ignorant of it, and should be glad to hear it repeated.

Mr. *Will*. The Committee reported fully after hearing the creditors of the other three, but the creditor of Thomas M'Intire is in a distant country, and could not be heard.

Mr. *Fitzsimons* apprehended the creditor had some person here, who as an agent or attorney could throw some light on the subject.

The question on striking out the name of Thomas M'Intire was put and negatived.

Mr. *M'Lehe* objected to three weeks being the term that the debtors should advertise for the appearance of their creditors, before the court of common pleas, as he supposed the creditors could not hear of the application by that time.

Mr. *Will* conceived if the House meant to relieve these persons, that they would do it before an advertisement could reach the East-Indies and return.

The bill without further debate was agreed to, and ordered to be transcribed and published for public consideration.

Mr. *Fitzsimons*. The House yesterday on my motion came to a resolution for appropriating the money raised by the late lottery, to the sole purpose of improving the road to the westward of this city: I proposed that resolution under the impression, that as the sum was so small, not exceeding £. 1700, it could not be applied with advantage to the two objects of the bill under which it was raised; one of them it might be of service to; but he had since learned that the half

if it could be usefully employed in clearing or improving the navigation of the river Schuylkill, therefore he was for adhering to the original institution of the law, and begged the motion might be reconsidered.

Mr. *Peters* thought the resolution was agreed to yesterday without due consideration, and therefore hoped it might be reconsidered; he was of opinion that an alteration in the application of money from the original purpose, was in some degree a breach of the public faith, and he was pretty confident that many persons had engaged in that lottery, on the expectation of the profits being applied to the improvement of the Schuylkill; if so, it was absolutely deceiving those and violating our faith, to alter the use from what they believe they were contributing toward.

Mr. *Fitzsimons* had made the motion yesterday, under the opinion that a division of so small a sum would defeat both objects, but the application of the whole to one might be useful.

Two of the gentlemen who had been on the Committee were of opinion, that the original intention of the law might be adhered to, and the half laid out very beneficially in the improvement of the river, whereupon they had agreed to bring the matter again before the House, as they were unable to report in favour of the motion. There had been something singular in the appropriation of this money from the beginning. When the scheme of the lottery was first set on foot, one of the objects was a particular accommodation to the city, by erecting an exchange; this was continued in the bill during the publication, and only struck out when the bill was passing into a law on the third reading; to this alteration might in some measure be attributed the deficiency in what was expected to be raised; the act likewise had an expression in it which appeared to leave the application to any future House: the words are, "agreeably to the laws now existing, or laws which may hereafter be enacted for that purpose." But since he had heard the moiety of the money could be usefully employed on the river, he cheerfully gave up the intention of applying the whole to the roads. He hoped some gentleman would also inform the House of the advantages, in order to induce them to rescind their vote of yesterday.

Mr. *Lollar*—It clearly appears to be the intention of the law to have each moiety applied to the purposes already mentioned, let the amount of it be great or small, wherefore he would vote for a reconsideration.

The House agreed to reconsider—and in consequence of an intimation from the speaker it was proposed by Mr. *Fitzsimons* to amend his motion by inserting after "for the improvement of the public roads" the words "and for the improvement of the navigation of the river Schuylkill," which amendment was agreed to.

A desultory conversation arose upon two or three alteration that were proposed, and Mr. *McLene* did not approve of the Commissioners being appointed by the House. He thought this a power the council

cil ought to exercise—and they could do it better than the House, for they might employ this money by contract, and hence would arise a great saving.

Mr. *Clymer* thought this observation merited attention, and wished the Committee to be left free on this point, whether in the bill they should report Commissioners to expend the money, or leave it to Council to act as they might judge proper.

Mr. *Lollar* advocated the same idea, but as the motion could not be moulded at the table to suit every gentleman's wishes, it was moved by Mr. *Clymer* to postpone for a little time, in order that another resolution might be framed.

This was agreed to ; and after a short time the business was again brought forward—when it was determined to leave the mode of application to the Supreme Executive Council ; and the same Committee as were appointed yesterday, were now re-appointed and ordered to bring in a bill accordingly.

Mr. *M'Lene* thought if the House had an intention to pass the Wyoming bill this session, it would be best to give it dispatch, and let it have a second reading—he had heard the former bill complained of, and conceived this would remove the complaints—if the House agreed with him in this opinion, he should call it up.

Mr. *Peters* thought there was a real necessity for passing this bill before the House rose, for which reason he heartily joined the member in calling it up.

Mr. *Kennedy* confessed he had some doubts of the propriety of reading a bill of so much importance twice in one day, he believed it would be better to defer it till to-morrow.

Mr. *Schott* wished it postponed until to-morrow, as probably he should have some amendments to propose.

Mr. *M'Lene* hereupon withdrew his call,

And the House adjourned until to-morrow half past nine, A. M.

FRIDAY, November 16, 1787, A. M.

The House met pursuant to adjournment.

Mr. *Macley* presented two petitions from a number of the inhabitants of the county of Northumberland, taken from the files of the late House, stating the numerous difficulties and inconveniences they sustain by their remote situation from the seat of justice in that county, and praying the House will please to lay off a new county for their accommodation.

Ordered to lie on the table.

Mr. *Hiltzheimer* presented the report in part, of the grand Committee of claims, which was read, and

Ordered to lie on the table.

Mr. *Mocre* also presented a report from the Committee on the petition of Margaret Davis, which was read, and

Ordered to lie on the table.

The bill for encouraging and protecting the manufacturers of the state was read a second time, and ordered to be transcribed and published, as was the bill for amending former acts relative to the justices of the peace within this state.

Mr.

Mr. Schott called for the third reading of the bill, entitled " a supplement to an act, entitled an act for ascertaining, and confirming to certain persons called Connecticut claimants, the lands by them claimed within the County of Luzerne, and for other purposes therein mentioned.

After reading over the same it was agreed to be considered by paragraphs.

The first enacting clause being read by which the supreme Executive Council are empowered and directed to raise and keep up such military force in that County, as they may judge necessary to preserve the peace and enforce the execution of the laws, and to draw on the treasurer for the monies requisite for that purpose, provided that this force do not exceed five hundred men, nor be kept in pay for a longer time than one year from the passing of this act.

M. M'Lene confessed he had his doubts on the propriety of this clause, for agreeably to the articles of confederation, this state cannot raise an army without the consent of Congress; it is there provided, that *no state shall keep up a body of troops in time of peace, except such number only as in the judgment of Congress shall be requisite to garrison the forts*, but every state shall keep up a well disciplined militia. Now it appears from this article, and the resolution which was agreed to by the House the other day, that it was understood by us to be improper, until the consent of Congress was obtained; Council was instructed to apply to Congress for leave to raise these troops, but by some means that has not been got: I wish gentlemen would therefore think whether we are at liberty to raise forces for the occasion proposed in the bill, without the assent of Congress, and in violation of the articles of confederation—for my own part, I confess I have doubts; but if any gentleman can remove them I shall be in favor of the clause, if not I must move to postpone the bill, until I can be satisfied. Another great difficulty with me is to raise the money necessary to make provision for these five hundred troops. What funds can we provide for, out of which they may be paid, when we know we are already distressed? For my part I don't see how the law is to be carried into effect if it is agreed to—but I shall wait and hear what other gentlemen have to say, and what their sentiments are on this subject, before I move the postponement.

Mr. Clymer. I am very sorry for the observation has been made, that we were unsuccessful in the application we directed Council to make to Congress, because I consider it of no service to our cause or to the state.

I wish also that Council had not mentioned it in their message, because it was not necessary to be known. Council had gone far enough, when they paid the compliment to Congress, who no doubt would have complied with the request had they been sitting: The business might have rested here, and the world could not have supposed but we had obtained the consent of Congress.

Tho' we have been disappointed by a circumstance which was not adverted to at the time, yet sir, self-preservation is the paramount law of nature. We are not to neglect our own safety or remain inactive, when force is required for the protection and support of our authority, against a lawless banditti of perverted citizens, or to keep the turbulent in subjection. We ought not to lose the substance in striving to obtain the shadow, or attend to forms when such attention eminently risques the peace and welfare of the state. As to the other objections which he has taken, that our funds are so low as not to furnish the means of raising troops, there may be some weight in it—but as Council are left to the management of this business, they are sure to go no further than the means will permit. If money enough cannot be found to comply with the full extent of the demand, enough may be had to raise a force which may still be adequate. The act being of absolute necessity, it was perfectly warrantable ; for if it either was neglected or delayed, the most serious consequences were to be apprehended.

The *Speaker* recommended to the member who had stated the objections, to read the part of the articles of confederation which followed, where he had chosen to stop.

Mr. *McLene* looked over it, and being about to read aloud, a member requested that the Clerk might read it—the clause was to the following effect : That no state shall engage in any war without the consent of Congress, *unless such state shall be actually invaded by enemies, or shall receive advice of an attack from the Indians, and the danger is so imminent as not to admit of a delay, until Congress can be consulted.*

Mr. *Findley*. It is with great diffidence that I rise to say any thing on this occasion, because I have not had an opportunity of digesting and examining the principles of the law now before us. It is allowed on all hands to be a matter of much importance, and it is more so as it is without precedent, which if now adopted wrongly, may be in great danger of fixing a continuance in the same improper road. We have all along in this business sir, gone on in the dark, and been deceived both as to the object and magnitude ; in saying we have been deceived, I dont mean that we were any otherwise deceived than as we deceived ourselves ; it is therefore that I go with great timidity into this business. We are to pass a law again without knowing its consequences, and may continue to give that uneasiness which the former one has done, beside laying the foundation of an enormous debt, tho' the last law may be said to be the foundation on which the whole is created. The reason, if I recollect aright, for passing that, was to prevent a war. We allowed then that it was right to give up the property of a number of our fellow citizens, in order to avoid coercive measures. I believe we gave up much more than we thought we were doing ; still we were justifiable, because it was done to prevent a war, and consequently a greater expence. But now we find a war is not prevented ; for the truth of this I appeal to the clause before the House—
here

here you find it necessary to raise an army, and therefore you encrease the debt, and encrease it again in the dark, for you do not know how much farther you are to go.

Suppose we raise 500 troops, and send them to hold possession of that country by the sword, if they are found insufficient, shall we stop here? certainly we shall not. We shall have still to furnish more. When once we pass the Rubicon, when once we commence the war, it will be impossible to stop short of the perfect attainment of our object, therefore I would wish gentlemen to consider well, to deliberate on the consequences before they decide the present question; for my own part, I am not clear to vote for raising troops at all; and to raise and pay those troops out of funds which are already appropriated, and we know all our funds are appropriated; for no more funds should be required than are necessary to pay that for which they are appropriated. When an occasion demand an increase of the funds, the funds should be sought for; and it is for this reason that I am not clear for raising troops; but were I in favour of going to war, I should not do it without I knew where to lay my hand on a fund that should defray the expence. Are we to consent to embarrass our funds created for the relief of the public creditors? or are we to call upon Council to go into the measure of raising troops, without providing any means for them to defray the expence? I don't know on this occasion but we ought to be certain, and see the fund before we agree to the clause, and know the amount of the expence we are to incur. Yet that my opinion may not have an improper weight, I shall not further oppose the bill at this reading; but I have learned caution too late in the affairs which relate to the unfortunate district of Wyoming, and I do not wish to proceed without some degree of certainty.

Mr. Fitzsimons.—That the business we are now deliberating on is of great importance, I agree with the gentleman who was last up, and that its consequences ought well to be considered—this I apprehend will be done by the House; but he has thrown out a hint that the business has already been gone on too fast, and that it will be proper now to draw back. We are says he, about to engage in a war, and should therefor consider well the consequences. Many of the gentlemen on this floor must remember the rise and progress of this business in the late House, whose object in passing the law to which this is a supplement, was to prevent a war; this the gentleman allows, but tells you the war is not prevented; but sir I believe the intention of the present House is the same as the last, and all that is meant by the bill before you is to *prevent a war*, and not *declare one*. I believe it is general opinion of the members of this House, that by raising immediately a few men, and establishing a post in that country you prevent a war; but without this a war is inevitable, therefore his arguments for deliberation, before we decide in favor of the war, do not apply.

If the information which was received from that country in the last
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year was well founded, I think fir nothing but the measures we then adopted could have saved us from being shortly after engaged in a long, formidable and expensive war; by the measures we then took, we divided the opposition to our government; in its consequence it not only weakened the number of incendiaries, equal to the separation that took place, but strengthened the hands of government by the accession; and further it prevented a much greater number from coming and joining with them than has done: Again fir, it has taken off the assistance which the state of Connecticut would have given her own citizens, complaining of the injustice of Pennsylvania. All these objects have been accomplished by that very measure which the gentleman insinuates he was deceived into; certainly the interest of the state has been attended to, otherwise it could not have had these good effects. From further information which has been received it appears, that there are a number of inhabitants in that part of the country who are dissatisfied, and opposed to the government of Pennsylvania; they have declared by the measures they have taken, that nothing short of an absolute secession from this state, and an independent government of their own, will give peace or quiet their dissenters. The intention of the present bill I apprehend is to prevent them from embroiling that part of the country in feuds, dissensions, and to preserve it from bloodshed. I believe the information which has at various times been laid before the House, the dispatches from the governor of New-York, and the evidence of gentlemen from that country, all prove the necessity of sending up such a force, and that soon too, lest it be employed to cure what it may be too late to prevent; nor do we know where it may stop—for if the frontiers are suffered to insult your government, the contagion spreads more and more wide, by the accession of all the dissolute and idle, until it may reach the centre, and all be anarchy, confusion and total ruin.

The gentleman complains that the funds of the state are in such a situation, as to make it difficult to provide for the most necessary measure. I believe there is some truth in this observation, but I wish those gentlemen who brought our country into that situation, or who by their counsels and presence assisted to effect it, would now employ themselves to give their assistance to retrieve them—or had considered earlier the mischief they were doing, by depriving Pennsylvania of the means to defend herself against the misrule of internal incendiaries.

If a few hundred or a few thousand pounds can be employed at present, to save the peace of the state, and ten times that sum hereafter, the measure must be prudent; but then he complains that the engagements already entered into by the state, must be violated—from the great deficiency in your funds intended to provide for these engagements, many of them must go unsatisfied; and surely it would be more justifiable, that the violation is made to secure the state from a bloody and expensive war, than for the accommodation of delinquents, who are the only persons benefitted by the deficiency; it is better that the

public

public creditors and officers of government wait a few months for their salaries and interest, than that the safety of the state should be committed or put to the expence of ten times the sum it would now take—for it is not supposed sir, that the whole number of troops mentioned in the bill are now necessary; but if it is deemed requisite to raise the whole, I consider the money more usefully and more necessarily employed in that way than any other, inasmuch as the peace, security and happiness of the state, are objects to which every other ought to be subservient.

The gentleman enquires how far we are to go, after having once more engaged in this business? I must own I do not know how far—but I will observe, that at the time when the first law passed in the last year, the situation of America was much worse than at present; it is well known that the rebels in the state of Massachusetts were but just defeated, and would instantly have sought an asylum on the frontiers of Pennsylvania, could they have found encouragement; that they would have been there, if the Legislature had not divided the claimants, is I believe clear from the various letters which have been laid before you, so that not a member of this House entertains a doubt on that head.

If as the gentleman asserts, it is necessary to find funds for these so necessary expences, I trust they will be found: But we know that the House in many cases orders Council to apply monies to such uses as they see occasion for, because it is supposed that the funds of the state make a general fund, and amount to more than what is appropriated; I hope therefore the House will agree to the bill, and if it shall be found necessary to obtain additional funds to provide for the troops, that the House will engage to make the supply by the best means in their power.

Mr. Findley. I don't design sir to go further into the general question on the propriety of the proposed measure, unless I was better informed than I am at present, and which I mean to take all the pains I can to be, by then the bill comes to a third reading; therefore I shall not make a general reply to what has been said by the worthy gentleman from the city, but only to some particular parts. He says that it is not designed that the whole force mentioned in the law should be raised immediately, and sent into that country: I believe this sir to be true—but then the gentleman will agree with me, that we must raise a sufficient number to effect the purpose for which they are intended. If these go forward under an idea that a less number may do, and it is on trial discovered that they are inadequate, I must then vote for a greater number. We cannot by any means agree to bind ourselves to any limited number, because the event may demand more, and we ought not only to provide for all the probable but possible consequences of entering into war.

With respect to providing funds, the gentleman has admitted the state is embarrassed, and he tells you those gentlemen who had a hand in bringing the revenues into this situation, should now assist to extricate them; if he means any gentlemen who have assisted in bringing

debts

debts upon the state by expensive measures, it is proper that they should; but if he means those who have provided funds for those debts which were created, his charge is not a charge of guilt but of honor; the old debts of the state have been funded, but this which we are about to contract is a new debt, not by any means like the former: the difference between them is, that for the one a valuable consideration has been received, or faithful services rendered which required compensation; this is providing for a new debt which we are about to create, and for which no consideration is given us. The funding system to which the gentleman alludes, cannot be deemed any thing more than an increase of the debt, not the creation of a new one. But will we create a new debt, and lay it on the same funds? Can there be any justice or propriety in it? the gentleman has said something that I do not understand; he speaks of considering the funds of this state as one general fund, yet I don't apprehend that he considers them as appropriated funds, and unappropriated funds, because he admits that the state has appropriated as much as she is able to bear; I said before that there were no unappropriated funds, and that no Legislature ought to raise any funds but appropriated funds, and that they have no right to judge of the uses before hand; in this I am supported by the constitution, which declares, that before a law is made for raising any tax, that the purpose for which it is to be raised, shall appear clearly to the Legislature; it is therefore necessary, and ought to be necessary, that when we create a new use, we should also create a new fund.

I don't question but the House have a power to alter an appropriation, but not without securing the debt for which such funds were appropriated; for to take appropriated funds, and give them to new uses, without supplying the deficiency it must occasion in the old, is such conduct as must soon ruin any government in which it is practised; and it is the duty of every citizen to oppose it because he does not know how soon it may be his own case; for the same reason that would apply to take from us the security which government has given us for the punctual discharge of our debt, would apply to the patents of our lands, which are held under a similar faith, and every thing that is held under this government. I say we cannot go into the appropriators of such funds as are already applied, nor would Council conceive themselves at liberty to draw for any part of such monies upon which particular debts are funded, without a special repeal of the acts. I judge they could not: I shall say no more about the general object which this law has in view, but I must insist upon the funds being provided, and not those already appropriated to be charged with the expence.

Mr. *Peters*. Whether all the observation that have fell from the gentleman are strictly in order, and apply to the clause before the House, I shall leave to the Speaker to determine. I mean to consider only whether it is necessary to conduct a permanent force into that country, for the support of good government, which can never be done by

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want of firmness ; for when the civil authority is too weak the aid of military is requisite. The gentleman who first objected to the clause, before you, objected fir upon the ground of the confederation. The more Mr. Spraker we examine that confederation, the more unfortunate and inadequate does it appear, for the protection of this country. But sir if we turn to it on the present occasion, we shall find it justify this state in the measure we are now about to adopt. I shall say very little about what kind of funds ought to be provided, because I consider the question at present to be whether it is necessary to send troops into that country. I am not alarm'd sir at this time of day, by a breach of the confederation ; I have known them happen frequently in cases somewhat like the one before us, when Congress could not be consulted, or were in such a situation that they could not assemble : yet individual states have not suffered themselves to be ruined through a strict attention to formalities directed in those articles ; and shall we, so critically circumstanced, attempt to secure the shadow but lose the substance ? it is written that the spirit healeth, but the letter killeth. I am not alarmed sir because we have done every thing to pay a proper compliment to Congress ; we have sent to them for advice and approbation, but they are not together, nor cannot apply the remedy to the disease. Shall the state of Pennsylvania be overrun by a lawless banditti, because Congress are not assembled ? can any gentleman rely upon such argument, to defeat the present object ? as for the observation of the gentleman from Westmoreland, that the former measures have proved ineffectual I would just remark, that they have not yet been fairly executed ; when I first heard of a law vesting the Connecticut claimants in their claims, I thought it an improper measure ; since that I have heard the subject more fully discussed, and greater lights thrown upon it ; I must own I do not see what the Legislature could have done more prudently, and I do insist that the pacific disposition shewn by the state of Pennsylvania, in offering those misguided people what they contended was their property, is an instance of lenity that will justify her conduct to the world, if it is now found necessary to coerce these people into an obedience to her laws. The gentleman is apprehensive that we are about to begin a war, but I say sir it is defending against a war being begun. Will these people commence hostilities the sooner because Pennsylvania is prepared—or are they to be suffered to collect their force together ? The lawless and abandoned from every part, and consolidate them so as to bid defiance to your government before you are prepared. *Venienti occurrere morbo*, let us prevent the disorder in the beginning, and no longer suffer them to contemn your lenity, dispise your pusillanimity, and defy your government, then your expences will be increased in a ten fold proportion, if we act with decision now it will save money to the state, which is perhaps as necessary as to support her violated dignity. We ought to know the consequences of permitting these men to have an accession of force, for then their decisions will not depend upon justice, but the strength of arms ; and the more
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they increase in number, the more they extend their influence. We must not make an exertion to prevent the ill consequences that arises to the state, because we are not to embroil ourselves in the suppression of the insurgents; and because it will be expensive, now I conceive the only way to save expence, on such occasion, is to keep up a proper force in every county where disturbances may arise.

The gentleman dwells strongly upon the circumstance of our being possessed of no funds to execute this necessary business; that is quite out of the question upon the present clause. I apprehend, when we come to that part of the bill to which it relates, it will no doubt be debated, and proper arguments used on the occasion: he says he don't know what measure he will take, but he is rather inclined to oppose the present. I think before he does this, he should propose something that is better, for I am not for rejecting the present measure, unless another is submitted in its room. If he has any such to offer, it will no doubt be considered with attention; but unless he can do that, I shall assent to the clause as it now stands before us.

Mr. Robinson. A question seemed to be made by the member who spoke first, whether it was in the power of the House to raise troops, without a breach of the confederation? let me first endeavour to determine this point. By the sixth article of the confederation, no state can keep up a body of forces without the consent of Congress; in the clause following, an exception is made, in case of such state being actually invaded by enemies; if this article is taken in its strict, literal sense, it can only apply to forces raised against external enemies, and not to those within, as in case of rebellion; but if even it did apply in our case, the exception that follows determine for us beyond the possibility of a doubt: the words are, *unless the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted*; but enemies arising within the bounds of a state are to be suppressed by the exertions of government, as in case of riots; and I presume it was not intended by the confederation to lay such state under the necessity of applying to Congress, to be enabled to ward off these dangers to itself which would be breaking down the natural barrier of its own security; therefore I should conclude, that the application to Congress in the present case is unnecessary; *but if necessary*, we are warranted to raise the troops, *because the danger is so pressing as not to admit of a delay*. To establish this point it will be necessary to enquire whether such is our situation? We must now turn to the communications that have been made to this House by Council; from which we shall be able to prove the precarious tenure by which we hold that country. You find its inhabitants are associating for the purposes of defiance; you find that combination first breaking out in acts of extreme violence, the expulsion of your Commissioners, and rejection of those benefits which have been offered them; so that it appears clear not only from the spirit but the letter of the confederation, that we are perfectly justifiable in passing the clause before you; with respect

spect to the question on funds, it is necessary to say but little upon it ; but if it was so that we could not lay our hands upon any, and the question was to determine whether the state should be exposed to all the miseries and difficulties of a rebellion, and the officers of government remain for a time unpaid, I should not hesitate *salus populi suprema lex est*—the public good should be the first consideration. But a breach of any appropriation is not necessary in the present case ; for even were the funds insufficient, the good people of this state would contribute cheerfully, rather than endanger the safety of their government and laws. With a view to execute this it is necessary to pass the law ; Council will judge how far it is requisite to embody the troops, and it will then become our duty to supply such funds as are necessary.

Mr. Fitzsimons. Connected with the subject that is before us, perhaps the debate relative to the appropriation of funds has been improperly introduced ; but as the gentleman from Westmoreland (Mr. Findley) has replied at large to that point, I hope I may be indulged to answer in one particular. He denies the appropriations are misused, but conceives that every appropriated fund is applied to the discharge of the particular sums charged upon it : To this I only answer, that it must be within the knowledge of every person, that no regard has ever been paid to this kind of appropriation. The revenues of the state, Mr. Speaker, are all thrown into one common stock, and are applied to pay generally (that is as far as it goes) every demand that presents. By the act of March 16, 1785, certain funds are directed to be raised, and a revenue of about £. 76,000 per annum is laid upon the lands within this Commonwealth. By act of March 1st, 1786, a still larger sum is assumed upon the aggregate fund, which proves that it was not then conceived necessary to add a special fund to operate in assistance to this aggregate ; since that other laws have passed, charging the funds of the state generally to furnish certain monies deemed necessary to be applied, especially to some particular purposes ; and it was taken for granted, from the Comptroller General's statement, that those funds would be sufficient for the whole ; this is therefore not departing from any appropriation, but acting upon the precedents which have been some time established. Let me ask that member whether those persons whose debts are founded upon the excise, are paid their interest out of the particular money that is collected from this source of revenue ? no sir, no such thing ; for the money has been in some cases collected and applied to other uses, when those persons have been obliged to wait ; and it is pretty certain that the monies which have been provided for special purposes, directed by act of assembly, has been paid almost in every instance to the first that called for them ; but as I have premised this debate on the funds might be improperly before the House on the question for raising troops, I shall add no more ; but when we come to consider that part which relates to the provision, and are convinced of the necessity of exerting the authority of the state, I have no doubt but
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what we shall be fully able to answer the gentleman's objections ; and I hope that it will be in our power to provide the necessary funds, if absolutely necessary, notwithstanding the prodigious sum which has been already charged upon the state.

Mr. *Lewis*. I have attended to the debate on this important subject, with all the attention I am capable of ; and after marking the several objections that have been stated against the present measure, I think they are reducible to three points :

First, it is said that under the articles of confederation it would not be lawful for any state to keep up forces in the time of profound peace, without having first obtained the consent of Congress.

Second, it is a matter of momentous concern, and we ought not to precipitate ourselves into a war, but that we ought to deliberate and consider seriously the consequences, before we pass the Rubicon.

Thirdly, it is contended to be improper, because the funds are not already provided for the expence, nor cannot be provided without entailing a greater burden or difficulty upon the community, than the advantages arising from its application would benefit them ; I say that I have listened to these objections with candour, and the result has been a conviction to my mind that neither of them are well founded.

If I could believe that a compliance with the clause now under consideration, involved a breach of the articles of confederation, it should meet with my most hearty disapprobation, and for this among other reasons, that if the present measure was a violation of the confederation, we should come forward with a very ill grace to ask assistance from the United States, when such assistance should become necessary to restore tranquillity and good government to the disturbed part of our country. This brings me to consider the situation of that part of Pennsylvania which this bill is intended for. When the United States of America had first determined on a confederation, nay, long before it had effect, Congress were formed its head, they were vested with the right of declaring war, and making peace ; hence is that article of our confederation necessary which was quoted by the honorable gentleman on the opposite side of the House (Mr. M'Lean) and is calculated to prevent a single state from disputing with a foreign nation, and thereby involve the union. It must be improper to leave it in the power of any particular state to pursue such dangerous measures ; but if they are obliged to wait the approbation of Congress on such occasions, it is less likely that they will embroil their neighbours, because Congress will act with more deliberation and coolness than the state, whose feelings are more irritated by the local affront. From this observation I think it appears, that the clause alluded to in the articles of confederation was inserted to preserve the peace and tranquillity of the United States, by restraining the individual state from involving in war and wretchedness the American empire. There is one exception sir, contained in the following section to that quoted by the member, which

is, in *case of invasion* ; this could not be otherwise, or it must been a perversion of the means of self-preservation, that were given us by God and nature for our own defence ; and that ability impressed throughout existence by nature's God, no one has a right to divest us of. It is true that in society we must forego much of this privilege, and in various cases our appeal must be to the law of the land, yet if I am attacked, I have a right to defend myself ; hence it is when surrounding enemies press on every side, we have to exercise this privilege. and defend ourselves by the best means in our power. To apply these observations, it may be requisite to consider under what definition the Wyoming insurgents are to be placed.

The ill designing persons in that settlement, who are the object of the present measure, are either enemies or rebels to your government ; view them in which of these points of light you please, and what is the difference ? It has been alleged, and the proof is fully before the House, that a lawless banditti in the Wyoming country have taken up arms and waged actual war against this state. They defy your severity and condemn your lenity ; they have insulted the dignity of your laws and the majesty of the people, by actions of the most daring nature. There are two forms of declaring war, the one, that solemn and formal mode practised on many occasions by various nations, conformably to that article of the Roman law which required a vote of the senate to raise the arms of their state, in obtaining redress for the incursions and inhospitality of its neighbours. The other mode is that of sudden attack and opposition without previously demanding that justice from the government which is sought-by force, or declaring any such intention. In either case the torch of war is lighted, and its wide extending blaze flashes conviction to the most timid, of the necessity to oppose force to force, as the only mean to extinguish the growing conflagration which, in its progress, must involve all, without distinction of age or sex. All the rules and principles allowed in such a state of warfare govern equally, let the cause have been whatever it may. Observe the men who form the present opposition in that country and you will discover them to be composed not only of your own perverted citizens, but of others from the extremes of our sister states, who join in defiance of your laws, and contend against your jurisdiction. This conduct sir, if this was all, amounts to actual hostilities, to all intents and purposes, as much as the most formal declaration.

Let us for a moment reflect upon the principles on which this article of the confederation was founded, what were the motives that induced its framers to compose this clause ? The hostile state of that country must be termed, as I already premised, either invasion or rebellion ; if the latter, then certainly every government must have the unalienable right to exercise its power to prevent its dissolution or subversion, and ought to crush the standard of rebellion, if erected within its limits. Was this a case intended to be prevented by the article alluded to in the

arguments of the member from Franklin? no it was not. That article was conceived to prevent an individual state from engaging in a foreign war, or attacking her neighbours, and by no means to wrest from her the mean of self-defence. Viewed in this light fir, the confederation does not apply to the present measure. View them as enemies from abroad, and this exertion is warranted by the exception. But the true state of the case is to consider them as rebels, and that your civil authority being inadequate to preserve peace, and enforce a due execution of your laws, it becomes requisite to call in the aid of the military. And here permit me to observe, that it is unjust to infer we are about waging war, because fir we do not commence hostilities, but only endeavour to perform those duties we owe our constituents, and restore to them the full authority over the whole state, which they are undeniably entitled to. It is only an endeavour to crush opposition in its infancy, which if suffered to continue in growth, may rise gigantic and hurl defiance to all the strength of Pennsylvania.

The second point to be considered is, that a case of this momentous concern ought well to be deliberated and adjusted, lest we err beyond correction. I join perfectly in sentiment with the honorable gentleman from Westmoreland (Mr. Findley) that it is a good rule to deliberate seriously in the first place, and to act afterwards with firmness and decision; but what would be the situation of Pennsylvania, if those incendiaries are permitted to continue their violence and disorder much longer? it is known to a demonstration, that a rebellion exists in that country, and that measures of a milder aspect have hitherto proved ineffectual to allay that rage for opposition. Has not the state of Pennsylvania hitherto pursued measures of uniform lenity towards them, even until we are become contemptible in the eyes of the surrounding states? Has not the ground of difference been decided conformably to the articles of confederation by the decree at Trenton? Has not the Legislature of Pennsylvania passed an act, confirming to the Connecticut claimants certain lands which they held under that state? Have they not abolished the rights of their own citizens as a peace-offering? Have they not been allowed a sufficient time to return to their duty, instead of which they have applied it solely to increase their force and usurp the jurisdiction over that part of the state? Let me ask Mr. Speaker, if after all this lenity—lenity so ineffectual, we shall one moment longer deliberate on the propriety of adopting measures of a different cast, and on which we have to reply. I admit fir it is a good rule to deliberate, but not to deliberate until all opportunity of acting is passed away. When we find these people have so long been dealt mildly with, and that the consequence is adding strength to their opposition, we ought not longer to hesitate on drawing the sword of self-preservation.

It has also been alleged, as an argument to defeat this measure, that funds are not provided, and that the expence is likely to be a greater injury to the state, than would be counterbalanced by any benefit that

that might result from its adoption. I should consider for my own part, the advantages of preserving peace, and restoring to the civil magistrate the just exercise of his powers, to far outweigh the probable inconveniences; it is not likely that greater inconveniences will be occasioned by acceding to the present bill, than will arise from the delay; because as it is our duty to protect the friends of government, it is a duty we must one day perform; if it is delayed at the present, it must be adopted in future, when from the accession of force and numbers, you will find these people are not to be subdued by ten times the force that will effect it now; if we do not provide the funds to enable Council to execute this measure, are we to oblige a part of our fellow-citizens to submit to every species of injustice and oppression, that may be administered by the banditti of Wyoming.

Suppose we refuse on the present occasion to adopt coercive measures, will it not give the insurgents additional force? and will not the same argument now made use of, defeat every attempt at coercion? but above all, will not delay most surely encumber us with ten-fold the expence that will be necessary at present?

Mr. *Findley*. I will just observe that I apprehend, from the warmth of the gentleman's arguments, that he has placed mine in a stronger light than I meant them. The observation that it was necessary to have the funds before we enter on a war, he says will ever apply to defeat such measures as the present—however the argument may operate, it is founded on the constitution, which declares that before the fund is raised, its uses shall be ascertained and decided to be more advantageous than the omission. With respect to the gentleman who was up the last but one, we differ as to a matter of fact; he says that all the funds of the state are drawn into a general fund, and its application is equally general. It may be so, but I have understood otherwise from the conversation of the treasurer, and am induced to believe, that though the treasurer may at one time pay a demand out of some fund not particularly designed for that purpose, yet he returns what he has so borrowed, when the products enable him. The excise, for instance, is appropriated to the payment of interest on the depreciation certificates; but the excise revenue does not come in at the time the interest becomes due, therefore the treasurer borrows out of the money on hand, enough to answer the purpose, and when the revenue comes in, it is replaced. The treasurer added, that a special regard is always paid to this, and the accounts are stated in that particular manner.

I agree with the gentleman that there has been some laws directing expenditures of certain sums, the one for Berks county road, but I think Council made some difficulty in drawing for the money out of the existing funds, which were all appropriated.

Mr. *Lewis*. The gentleman complains of our want of funds and contends that we must remain inactive until they are procured. The argument appears to me only adapted to defeat the business: let his construction be what it may, in this light I have viewed it all along;
and

and suppose the bill is not suffered to pass this session, but matters left as they are until our next meeting, at three, six, or nine months hence, will not his objections apply with the same force at that period as they do at the present? because we know there will be as much occasion for funds then as now, and a necessity of providing greater, because the malcontents will meet you with recruited vigour, their forts will be more teneable and the country fully garrisoned; it will be in vain to assail their strong hold with the troops which are now fully adequate; either I say Mr. Speaker we must raise the force at the present moment or risque a greater expence, and suffer them in the interim to continue in opposition to your government.

Mr. Clymer. When I was first up, I replied to the member from Franklin upon the broad bottom of the rights of sovereignty. But confining the argument to what relates to our articles of confederation, I think the several gentlemen who answered from this side of the House have fully obviated his objections, as to the spirit of the articles; but I consider our case first as coming within the letter I have heard of armed men coming from the borders of other states, to oppose the execution of our laws; some from New-Town and various parts in its neighbourhood, have associated with the refractory of our own citizens, that we have to combat enemies from without as well as incendiaries within—and if it is once viewed as an invasion, which it may with propriety be considered to be, no member I apprehend will hesitate to declare, that it comes within the letter of the confederation, as contained in the clause where an exception is made to favor such states who are absolutely invaded, and whose time cannot permit them either to send or wait for the consent and approbation of Congress, to take necessary measures for their own defence and preservation.

Mr. Schott. I rise, Mr. Speaker, to offer some remarks upon what has been said by the gentleman who spoke last but one (Mr. Lewis) when he alleged that uniform lenity had been shewn by the government of Pennsylvania to the settlers at Wyoming: That gentleman must be mistaken in his information, or I do not believe he would assert what he has just done; because if that lenity which he mentions had been observed after the decree of Trenton, this House would not now be pursuing such harsh measures as are offered in the present bill. If at that time instead of marching an armed force into that country, a proclamation holding out the language of reconciliation, and confirming those claims which have since been given was issued, I am confident in asserting first that Pennsylvania would not at this moment contain more loyal or better disposed citizens than the Wyoming settlers. That opportunity was unfortunately lost, but I still think the object of restoring peace and harmony within our reach, and that without the exercise of military force; for the persons who are deemed so lawless are not I hope so numerous as to make it necessary. The majority of the House will decide as they judge proper on the subject before them: but first I cannot admit that Pennsylvania has shewn every lenity which she might and ought to have done.

The

The question on the first clause of the bill was now taken, and agreed to almost unanimously.

The following clause was considered :

And be it further enacted by the authority aforesaid, That within sixty days next after the day of every free male inhabitant of the said county of Luzerne, of the age of eighteen years or upwards, shall take and subscribe the oath or affirmation of allegiance, and make and subscribe the following declaration before some one of the justices of the peace of the said county, to wit: "I A. B. do acknowledge and declare that the state of Pennsylvania have lawful right to extend her jurisdiction to the whole county of Luzerne, to exercise her government and enforce the full execution of her laws therein ; that I do and will rest satisfied with the provisions of the late law of the said state, entitled, " an act for ascertaining to certain persons called Connecticut claimants the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned," and of the law which is a supplement thereto, and I renounce and forever give up all claim to land within the state of Pennsylvania under any title derived or pretended to be derived from the colony or state of Connecticut, or the Susquehanna company, or in consequence of any purchase said to have been made of the Indians, or from any of the commissioners, or from any person or persons whomsoever, acting or pretending to act under the authority or orders of the company, excepting only such lands as it is declared by the act aforesaid, shall be confirmed to the Connecticut claimants. And I do solemnly engage to appear at the call of the civil and militia officers of the said county, or any of them, and to the utmost of my power support them in the full execution of the laws of the Commonwealth of Pennsylvania."

Mr. *Kennedy* wished to amend this clause by inserting after the word "county" (printed in *Italic*) "unless he has already taken the oath prescribed by law." He wished this to be inserted, because he considered that if the persons disregarded their former oath, they would disregard this also.

Mr. *Clymer*. The reason that influenced your Committee to subject all the inhabitants to this oath, was, because it is alleged, that the mode in which the former was administered, did not correspond with the one, which the custom of their country imposed ; the New-England people having generally been used to swear with uplifted hand, and this had been taken by another mode.

The question was put on the amendment, and determined in the negative.

Mr. *Findly*. I am not going to vote against the clause, but I do not like it altogether, as it is without a precedent to extort an oath from one part of the citizens, while others are left at liberty ; it is creating not only an extraordinary oath, but new crimes and punishments in its consequences—such precedents as we are about to establish, is extremely dangerous, and may hereafter be extended as an engine

gine of oppression ; it is certainly important, and ought to be well considered before it is gone into.

Mr. *Peters* thought there was a great deal of propriety in the observation made by the member, but on this occasion he thought it necessary to have some criterion, to determine the fidelity of those who accepted the lenity of government, in substantiating their claims to the lands in Luzerne ; he was as much opposed to multiply oaths on any occasion, as any person, but could think of no other means to substitute ; he thought it proper to forget and forgive those who should now come forward, and pay obedience in future to the laws.

Some further conversation took place, when the clause was agreed to.

The three following clauses passed without debate :

And be it further enacted by the authority aforesaid, That every other free male person of the age of eighteen year, or upwards, who at any time within two years next after the passing of this act, shall become an inhabitant of, or reside within the said county, shall in like manner take and subscribe the oath or affirmation aforesaid, within sixty days next after the commencement of his residence therein, or of his arriving at the age of eighteen years.

And be it further enacted by the authority aforesaid, That every free male person of the age of eighteen years or upwards, who is, or shall become an inhabitant of the said county, or shall reside therein, who for the space of sixty days next after the commencement of his residence within the said county, or of his arriving at the age of eighteen years, shall neglect to take and subscribe the oath or affirmation aforesaid, and to make and subscribe the said declaration, shall forfeit all right to land within said county by virtue of the act aforesaid, and also be forever incapable of receiving or holding by inheritance or otherwise, any land within this state ; and he shall moreover be deemed to entertain a design to disturb the peace of the said county and to resist the lawful authority of this Commonwealth, and upon conviction of such neglect such offender shall enter into a recognizance in the sum of pounds, with one or more sufficient surety or sureties, to keep the peace and be of good behaviour for two years, or be committed to gaol. And if any person who shall have subscribed the oath or affirmation and declaration aforesaid, shall fail to stand forth and support the officers aforesaid, or any of them, when called as aforesaid, in executing the laws of this Commonwealth, such person shall for the first offence forfeit the sum of pounds, and for the second and every subsequent offence, the sum of pounds.

And be it further enacted by the authority aforesaid, That every justice of the peace before whom the said oath or affirmation and declaration shall be subscribed, shall keep a fair register of the names

names and surnames of the persons so subscribing, and the time when, and give to each of them a certificate of his having taken, made and subscribed the same. And every such justice of the peace shall within fourteen days next after the expiration of the said sixty days, and at the end of every three months afterwards during two years from the passing of this act; transmit under his hand and seal true lists of the names and surnames of the persons so subscribing, of their places of abode, and times when they took, made and subscribed the oath or affirmation and declaration aforesaid, to the recorder of deeds for the said county; and the said recorder is hereby enjoined to enter the same on record.

Mr. Schott moved to fill up the first blank in the following clause, with the 28th instant; and the second with the 28th of May.

And be it further enacted by the authority aforesaid, That the persons called Connecticut claimants be and they are hereby allowed to present and support their claims in the manner prescribed in the said act, from the _____ day of _____ to the _____ day of _____ and that the present called Pennsylvania claimants be and they are hereby allowed to present and support their claims at any time before the first day of January, which will be in the year of our Lord 1789. And the claims of the respective claimants which shall be presented and supported within the times above prescribed shall be as effectual to establish their respective claims, as if the same had been presented and supported within the times first allowed them by the act to which this is a supplement.

Mr. *Schott* was of opinion that the claimants under Connecticut rights and those under Pennsylvania ones, would both be glad to know their doom at an early period; the sooner it could be determined the better, because the improvement and cultivation of the land would be suspended, whilst the decision of their rights was suspended: if it could be adjusted by May, there would be then time enough to get in their crops—and the injury though great, could not be so pernicious as the total loss of a year's product; this was his reason for wishing expedition in the conclusion of the business.

Mr. *Lowrey* thought some time ought to elapse, in order that the well-disposed might give assurance of their allegiance, because it was proposed, that none but such as took the oath, should be allowed their claim.

Mr. *Schott* was of opinion that the claims of such as chose to give an immediate assurance of their good disposition might be directly decided, and he had no doubt but the person who had taken the first oath would subscribe the last, and saw no cause of delay on this account.

Some further conversation took place, when Mr. Schott's motion was agreed to, with an alteration of the first of May, instead of the twenty-eighth.

The following clause being under consideration, viz.

And

And whereas certain of the said Pennsylvania claimants have petitioned the Legislature to make some new provision for the valuation of the lands of which they will be deprived by the operation of the act aforesaid, and to allow certificates to be given therefor, instead of new lands, at the option of the claimants—and this Assembly being desirous of satisfying the reasonable demands of the citizens of the state, by doing what to justice shall appertain :

Be it therefore enacted by the authority aforesaid, That the Supreme Executive Council be and they are hereby empowered and directed to call the Pennsylvania claimants to be notified by an advertisement in one or more of the news-papers published in the city of Philadelphia, to assemble at a certain day, and at such place as the Council shall appoint, for the purpose of choosing a fit person to appraise the lands claimed by the Pennsylvania claimants ; and the person who shall then be chosen by a majority of the claimants so assembled being approved of by the Council, shall in conjunction with another fit person to be appointed by the Council, name a third appraiser, who being likewise approved of by the Council, the said three appraisers, or any two of them, shall proceed under the direction of the board of property, in every case in which it shall by the said board be thought necessary to view the said lands, claimed by the Pennsylvania claimants, and report to the said board, their situation, quality and value. Whereupon the said board shall consider and determine what quantity of new land, and what sum in certificates shall be allowed to each of the said Pennsylvania claimants, who may then take one or the other at their option. And for every equivalent fixed and chosen as aforesaid in certificates, the Council shall issue their warrant to the Comptroller-General, who shall issue the certificates accordingly, and these certificates shall be paid as follows, to wit : one-fourth part thereof by the first day of January, which will be in the year of our Lord one thousand seven hundred and and one other fourth-part by the first day of January in each following year, until the whole shall be paid ; and they shall also bear an interest of six per cent. payable half yearly like the present funded certificates of the state, and the said certificates shall also be receivable in the land-office in payment for new lands, in like manner as the certificates now by law receivable at the said office for land, in the old or new purchase. And the compensation which the board of property shall fix in new lands, shall be taken in the residuum of the donation lands or in any other public lands within the old or new purchase, not reserved for the use of the Commonwealth.

Mr. Findly. It is here Mr. Speaker I apprehend, that the subject of the funds comes with propriety before us ; and I shall suggest the following propositions for the consideration of the House ; First, out of what funds are these instalments to be paid, when they become due ? and second, what monies are to be appropriated for the payment of the interest in the interim ? and third, what will be the amount of the debt we are to assume ? I consider sir that it will be necessary when the
House

House are to grant funds to any purpose, the amount ought to be previously ascertained; in this case I think the same observation holds good—for as I said before, we are as the law now stands, going to create a new debt, to be charged upon our appropriated funds, at the same time when it is allowed, that they have failed to answer the demands which they are already subject to; many of them it is alleged have failed, the impost certainly has; now let gentlemen consider seriously, how far it will be their duty, to encumber these funds further, by charging it with the payment of interest and installment, which they do not know the amount of. If it should be the duty of the House to add this expence to the state, surely the amount ought to be ascertained; but I believe they have no estimate or certificate of what this might be. I have taken a great deal of pains to procure for myself some information on this head, but I cannot say I have been so successful as I could wish. I think from what I have been able to collect, that it may be within £. 200,000 others are of opinion, that it will not exceed £100,000, but in both these estimations we may be deceived; I have already been deceived in this matter, not that I charge any person with a design to have deceived me, for I believe the gentlemen who composed the late House, and who acceded to the bill for confirming the Connecticut claims, were equally mistaken with myself. I know I have been mistaken both as to the quantity and quality of the lands in dispute. I think we were then given to believe, that the land did not exceed 20,000 acres, of no great value; I say sir, I don't mean to advance that we were imposed upon, any more than we imposed upon ourselves; but I now find sir, that demands are made upon us not only for lands given up to the Connecticut people, but for houses, orchards, meadows, and other valuable improvements. I was also lead to believe, that they were satisfied with the compensation we proposed to give them; but you find by the clause before you, that they are not satisfied, and that it is deemed reasonable to go further and do them ample justice. Well sir, but will what is now proposed satisfy them? will they deem it just to give them certificates unsustained by any funds? or will they be gratified by an order for the interest without the payment? I believe sir they will not be satisfied, unless both these things are obtained. Moreover, I consider it as doing an essential injury to the public creditors; the price of their certificates are very low, owing in a great measure I suspect to the deficiency in the payments of interest; but here we are making an additional call upon the funds, already insufficient for their original appropriation. We are not in a situation to do justice to both Connecticut claimants and the public creditors, let us therefore provide for our debts of justice, before we are liberal—the debt of justice, which is the debt of merit, occupies the first place, and both in law and fact are most entitled to our protection and consideration. As we are not acquainted with the extent of the demands, nor have funds to answer them, I do not see how it can be proper to assume the

the payment. If we are again mistaken in the extent of the claim, and it should again exceed the £. 200,000 or 100,000 it is now supposed to be, what will be the consequence? We have already done enough blindly and without information, therefore, for the present, I think it most proper to desist, or at least allow ourselves as much time as possible to get better information; for I must own myself very deficient on this head, but will endeavour to be better prepared on the third reading of the bill.

Mr. *Clymer* did not know by what means the gentleman had obtained so much information as he professed to have; for his part, after hearing all that was laid before the Committee, he was of opinion the expence would come within the limits he had mentioned. The gentleman seems to doubt the power of the House to incur a new debt, in defence of the happiness and safety of the state; but surely he must know that the Constitution is no barrier to such measure, and he must be acquainted with the practice of other nations. In England it is well known that the parliament create new debts, upon the faith of a simple resolution; and from the very term of funded and unfunded debt, he must have concluded that the practice obtained there, as well as in the United States, to hear a right of this nature disputed, by that gentleman who so strongly has urged the supremacy of the Legislature on former occasion, must be a subject of wonder and admiration.

Mr. *Findley* suspected he was misunderstood, for it was only the equity and expediency, and not the right which he had contended against.

Mr. *Fitzsimons*. This sir has been a troublesome business to Pennsylvania many years, and I think the hour is near at hand when the commotion ought to be allayed. The gentleman who is just seated, conceives sir, that he has been grossly deceived in the measure, which was adopted by the late Houses to accomplish this desirable object; I fancy sir our information at that time was pretty nearly alike; I remember then to have made enquiry into the extent of these persons claims, and was informed, that about 20,000 acres of valuable lands lying upon the river, was to be generally given up, beside some further up the county, of not so great worth. The gentleman must have forgot this latter circumstance, or I am sure he would not have mentioned the one without the other; but suppose sir that the extent of their claim should be £. 100,000, and we were now about to begin this business, and it appeared clearly to the House that forces must be raised, or that sum sacrificed to preserve peace, the House would consider seriously before they engaged in a war, and that at a very critical time, which might add to its obstinacy and severity; the House would also consider whether it would not be entailing a much greater expence on themselves and constituents, than the ten times the sum disposed of in this manner; and whether it was likely to procure them one more good citizen, than the measure of last spring has done. If it is necessary to obtain an estimate of these claims, before any thing is to be done, the

moment

moment of security is passed, and we cannot effect a reconciliation without a long and obstinate contention.

The gentleman conceives the power to be with us of expending money without funds, but denies the expediency; I believe sir every nation who have a sudden occasion to obtain money, do it upon their faith: England, my worthy colleague observes, has frequently done it by a simple resolution, and sir I should be glad to see the credit of Pennsylvania so far revived, as to be able to obtain it on the same security, and an equal credit paid to the honest dispositions of the Legislators of the state, to provide funds for the discharge of any engagement they may enter into. Suppose, Mr. Speaker, this sum to be £. 100,000 that is wanted on the present occasion, it is but 6000 per annum; this sum sir could injure the public creditors but little, and I believe sir the persons in whose favour this sum is granted, are as well entitled to our bounty at this moment as many of the public creditors within the state. The House, I hope sir, will have an accurate state of their funds, in three or four days, and then perhaps some of the gentleman's objections may be got over.

Mr. *Findley* contended that the debt already assumed was a debt of merit and of honor, and that the House ought not to lay hands on any of the appropriations to apply them to new uses; and this measure was not complying with the idea of justice, which it held out in the preamble to the present clause, because the certificate would be of little value, unless the House provided funds for the payment of the interest, and discharge of the principal.

One gentleman had questioned the authority from which he drew his information; he would only answer that he had such information, though he was not at liberty to name the person; but it would be a happy circumstance if the amount was under the sum he had named. The other gentleman from the city tells us that it will only be an addition of 6000 per annum, which will not much injure the public creditor; this is strange sir, when it is considered that it comes from a gentleman who frequently laments the deranged situation of those very funds.

The question was put and carried on the clause, when

Mr. *Findley* called the yeas and nays, but withdrew it—observing he was not fond of multiplying them, and it was but the second reading.

The bill being now agreed to, it was ordered to be transcribed and published.

The House adjourned to meet to-morrow, at half past nine, A. M.
SATURDAY, November 17, 1787. A. M.

The House met pursuant to adjournment.

A letter from John Carson, Esq. in excuse for his non-attendance was read; Ordered to lie on the table

On motion, ordered, that Mr. McClay have leave of absence during the remainder of the present session.

A petition from Garret Broadhead and Cornelius Vanhorn, in behalf of themselves and others, was read, remonstrating against the act entitled "an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned," and praying the operation thereof may be suspended;

Ordered to lie on the table.

A petition from divers inhabitants of the county of Luzerne was read, praying a further time may be allowed them to present their claims to the commissioner appointed under the act above recited;

Ordered to lie on the table.

A petition from Zebulon Butler was read, setting forth that in conformity to the act entitled "an act for quieting the disturbances at Wyoming, for pardoning certain offenders, and for other purposes therein mentioned," he surrendered himself, entered into a recognizance with one surety; that notwithstanding his surrender aforesaid, a suit was instituted against him for a certain trespass said to have been committed, and judgment awarded thereupon, for a considerable sum of money, and praying this House to grant him relief in the premises;

Ordered to lie on the table.

On motion of Mr. Peters, seconded by Mr. Lewis,

Resolved, that it be recommended to the Supreme Executive Council, to take immediate measures for locating and surveying sixty thousand acres for the use of public schools, agreeably to the law passed the 7th day of April, 1785.

The Committee of accounts made a final report, that they had at different times, during the present session, received from David Ritzenhouse, Esq. the following bills of credit, emitted by an act of General Assembly, passed the 16th day of March, 1785, viz.

7,295 bills of twenty shillings each,	-	-	-	£. 7,295
9,000 do. of fifteen shillings each,	-	-	-	6,750
6,000 do. of ten shillings each,	-	-	-	3,000
6,600 do. of five shillings each.	-	-	-	1,650
4,800 do. of two shillings and six-pence each,	-	-	-	600
4,800 do. of one shilling and six-pence each,	-	-	-	360
6,200 do. of nine-pence each,	-	-	-	255
7,200 do. of three-pence each,	-	-	-	90

Total, £. 20,000

All which they have examined, counted and burned, according to law.

The report of the Committee of John Fern jun. and John Penn Esq. read yesterday, was read the second time; whereupon,

Resolved, that the petitioners have leave to withdraw their petition.

The report on the message of Council respecting the claim of Colonel Francis Montgez, read yesterday, was read the second time,

And on the question, *will the House agree to the following resolution,*
Resolved,

Resolved, that a Committee be appointed for the purpose of bringing in a bill authorizing and empowering the comptroller to issue a certificate to the said Colonel Mentgez, for the sum of one hundred pounds, bearing interest from the day as a compensation for his services. It was carried in the negative,

The report read yesterday, on the petition of Devereux Smith, was read the second time,

Ordered, that the further consideration thereof be postponed.

The report read November 15th, on the petition of divers inhabitants of West-Chester, was read the second time; whereupon,

Resolved, that a Committee be appointed to bring in a bill constituting a certain district of county contiguous to said court-house, the county town, bounded as set forth in their petition, and called West-Chester,

Ordered, that the members from Chester County be a Committee to bring in a bill conformably to the foregoing resolution.

The report read November 15th, on the petition of divers inhabitants of Moyamensing, &c. was read the second time,

Ordered to be re-committed.

The Committee to whom was recommitted the report on the petition of divers inhabitants of the county of Bucks, made report, which was read; and on motion and by special order the same was read the second time;

Resolved, that a Committee be appointed to bring in a bill for the establishment of a seminary of learning, agreeable to the said petition, and for the endowment of the same, with acres of the unappropriated lands within this Commonwealth.

Ordered, that the members from Bucks County be a Committee to bring in a bill conformably to the foregoing resolution.

The bill entitled "an act for vesting the public store-house and two lots of ground, in the borough and county of Lancaster, in the trustees of Franklin college, for the use of the said institution," was read the second time and considered by paragraphs;

Ordered, that it be transcribed, and in the mean time printed for public consideration.

The bill entitled "an act for authorizing the Supreme Executive Council to draw an order on the treasurer of this state, for the sum of seventy nine pounds ten shillings, in favor of Alexander M'Dowell," was read the second time, and debated by paragraphs;

Ordered, that it be transcribed, and in the mean time printed for public consideration.

The bill entitled "an act for vesting thousand acres of unappropriated lands in the incorporated American philosophical society for promoting useful knowledge," was read the second time, and considered by paragraphs,

Ordered, that it be transcribed, and in the mean time printed for public consideration.

On motion, ordered, that Monday next be appointed for the third reading of the bill entitled "an act to alter and amend an act entitled an act for erecting and opening a loan office for the sum of fifty thousand, pounds," and that it be the order for that day.

The House adjourned until three o'clock to-morrow, P. M.

MONDAY, November 19, 1787, P. M.

The House met pursuant to adjournment.

A memorial from John Penn, jun. and John Penn, Esq. was read as follows, viz.

To the honorable the Representatives of the Commonwealth of Pennsylvania.

The memorial of John Penn, jun. and John Penn,

RESPECTFULLY SHEWETH,

THAT by the act of Assembly passed in the year 1779, vesting the proprietary estate of your memorialists in the Commonwealth of Pennsylvania, their lands known by the name of *Proprietary Tenths* or *Manors* were accepted and confirmed to them :

That by the negligence of your memorialist's surveyors and other servants, surveys of divers of the aforesaid Tenths or Manors, were not made and regularly returned into the land-office on or before the 4th day of July, 1776, although the warrants for that purpose had been issued long before that period; by means of which negligence, the property of your memorialists in many of the said Tenths or Manors, which have heretofore been possessed by them as such, has become doubtful.

Your memorialists, being firmly persuaded that the intention of the above-mentioned act of appropriation was to have excepted, and separated them from the public proprietary estate before the period of American independence, therefore beg leave to lay before you an account of such Manors and Tenths, as were not surveyed and returned into the land-office, on or before the 4th of July, 1776.

And your memorialists beg leave further to represent to your honorable House, that by the above-mentioned act of 1779, besides the aforesaid Tenths or Manors, there was reserved to the late proprietaries, all their private estates, lands and hereditaments, which they were then entitled to in their private capacity, by device, purchase or descent; and that since the passing of the said act, doubts have arisen whether by general terms made use in the same, the said act has sufficiently confirmed to your memorialists all such estates as they then possessed, or were entitled to by purchase of themselves or their ancestors, from such persons as held the same, by virtue of some prior warrant, survey or location :

Your memorialists therefore pray the honorable House will, by an explanatory cause, confirm to them all the said private estate, lands and hereditaments.

And your memorialists, fully relying on the inclination of the honorable House to relieve them from the losses they have sustained by
the

the late revolution, as far as is consistent with the present situation of the Commonwealth, beg leave further to inform the honorable House, they have lately had considerable demands made on them for arrears of taxes on the aforesaid Tenths or Manors and private estates, which if they are compelled to pay, would be still adding to their loss, which has already been so great.

Your memorialists therefore pray your honorable House will be pleased to exempt them from payment of all such taxes, as were due and in arrear from them on or before the first day of January, 1787.

JOHN PENN, jun.

JOHN PENN.

Aud on motion and by special order, the same was read a second time.

Ordered, that it be referred to Messrs. Clymer, Lewis, Peters, Kennedy and Findley, to report thereon.

A petition from James Young, an insolvent debtor confined in the jail of the city and county of Philadelphia was read, setting forth, that his case is differently circumstanced from those other insolvents whose names are inserted in the same bill with his, inasmuch as he hath on oath assigned his property to trustees for the payment of his just debts, therefore praying that such revival or amendment may take place in the said place, as will extend to him suitable relief;

Ordered to lie on the table.

The grand Committee of claims made a further report in part, which was read, and

Ordered to lie on the table.

The petition of Zebulon Butler, read November 17, was read the second time;

Ordered, that it be referred to Messrs. Lewes, Clingan and Schott, to report thereon.

The Committee appointed for the purpose, reported a bill entitled "a supplement to the act entitled an act for regulating the measurement of corn and salt imported into the port of Philadelphia," which was read the first time, and

Ordered to lie on the table.

Agreeably to the order of the day the bill entitled "an act to alter and amend an act entitled an act for erecting and opening a lone office for the sum of fifty thousand pounds," was read the third time, and considered by paragraphs;

Ordered, that it be engrossed for the purpose of being enacted into a law.

On motion, ordered, that to-morrow be assigned for the third reading of the bill entitled "a supplement to an act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned," and that it be the order for the day.

Adjourned until half past nine o'clock to-morrow.

TUESDAY,

TUESDAY, November 20, 1787, A. M.

The House met pursuant to adjournment.

A petition from a Committee chosen by the inhabitants of Pittsburg and the neighbouring country, was read, referring to the petitions to former Houses of Assembly, and praying that parts of the counties of Westmoreland and Washington may be erected into a new county; and on motion and by special order the same was read a second time.

Ordered, that it be referred to Messrs. Clymer, Lewis, Lowrey, G. Heister, Findley, Irvine, McDowell, Philips and Schott, to report thereon.

A petition from a number of inhabitants of the county of Westmoreland was read, praying the seat of justice in and for the said county, may be fixed and established at Hannahs-Town, as being the most eligible place for that purpose within the same county; and on motion and by special order, the same was read a second time.

Ordered, that the same, together with the petitions of a similar tenor remaining on the files of the General Assembly, be referred to the last named Committee to report thereon.

Mr. Lollar. Mr. Speaker, the constitution of this Commonwealth requires that public schools for the convenient instruction of youth be established within each county. In consequence whereof, an act of General Assembly hath been passed, whereby sixty thousand acres are appropriated for the use of public schools; and as several large tracts of unappropriated lands have lately been granted to several seminaries of learning within particular counties, and other applications for like purposes will doubtless be complied with, which gives just reason for many to doubt whether unequal appropriations of the public lands of this state may not hereafter be made; therefore I give notice to the House, that I intend shortly to offer a resolution for the appointment of a Committee, to bring in a bill to appropriate to each county their proportion of said sixty thousand acres, and that each county pay the expence for taking up their respective proportions, and not burthen the state with the expence as is commonly the case on like occasions.

A letter from the Hon. George Woods, Esq. inclosing certain papers controverting the petition of Lewis Kattleman, read in the late House September 7 last, were presented to the chair, and the inclosures read as follows, viz.

SIR, Philadelphia, November 20, 1787.

In last sessions of Assembly, a remonstrance was presented to the chair by one of the then members, in behalf of a certain Lewis Castleman, who complained I had obtained a conveyance of him the said Castleman, in a fraudulent manner, by which false complaint I feel myself much injured; I request your having the inclosed papers read, which I flatter myself will give satisfaction to your honorable body.

I have the honor to be

Sir your obedient humble servant,

The Honorable Speaker.

GEORGE WOODS.

KNOW

KNOW all men by these presents, that I, Lewis Castleman, of Cumberland county, and province of Pennsylvania, yeoman, for and in consideration of the sum of twenty pounds, lawful money of the province aforesaid, to me in hand paid, by George Woods of Bedford, the receipt whereof I do hereby acknowledge, have granted, bargained and sold, and by these presents do grant, bargain and sell all my right, title, interest, property, claim and demand, of, in and to a certain improvement and tract of land, situate on the south side of Dunning's Creek, joining and below Richard Hockly's land, on the mouth of Brush Run, and above the settled plantation of John Fouts or John Holmes; together with all and singular my improvements thereon, to wit: a house of twenty by eighteen, one story and an half high, a small field, cleared, fenced and tilled, and some meadow cleared and sowed with timothy; said improvements being made in the years one thousand seven hundred sixty one and two; all which improvements I in manner and form aforesaid, release and forever quit claim unto the said George Woods, his heirs, executors, administrators and assigns, with all and every the emoluments and advantages that may accrue unto the said Woods from said improvements, or any part of them, but shall be deemed and taken, and are hereby declared to be to his the said George Woods, his heirs, and assigns, own proper use and behoof, without any let, suit, trouble, molestation or evecton of me the said Lewis Castleman, my heirs, executors, administrators or assigns, or any person or persons claiming or to claim, by, from or under me, or any of them, any thing herein contained to the contrary notwithstanding.

In witness whereof, I have hereunto set my hand and seal, this tenth day of May, one thousand seven hundred and sixty-nine.

LEWIS CASTLEMAN, (L. S.)

Signed, sealed and delivered in presence of }
John Miller. }

N. B. The other witness's name is in Dutch, which cannot be made out.

The above is a true copy, as taken from the original.

W. HENRY.

Cumberland, ff.

Before me, one of his Majesty's justices of the peace for said county, came Lewis Castleman, and being duly sworn according to law, deposeth and saith, that he this deponent lived on a certain piece of land joining and above John Fout's place, on the south side of Dunning's Creek, in the year 1762, and that George Armstrong and Major Ward came to this deponent's house on said land, and desired him to leave that land, as the said land belonged to George Groghan and them; and also threatened this deponent, that he never should have the said land. This deponent also saith, that he got afraid that they might turn him out of the said land, and lest he should be desolate of a place, he went and bought another piece of land of the said George Groghan;

but declares that he never sold, swap'd or bartered said land joining Bout's, or improvements to George Groghan or George Armstrong, nor to any person living, save to George Woods, which he has conveyed said improvements to.

LEWIS CASTLEMAN.

Sworn and subscribed to before me this

19th day of January, 1771.

BARNARD DOUGHERTY.

The above is a true copy, as taken from the original.

W. HENRY.

The Committee appointed yesterday on the petition of Zebulon Butler, made report, which was read, and Ordered to lie on the table.

The report of the Committee read yesterday on the petition of Nicholas Kuhl and others, was read the second time, and the resolution in part adopted as follows, viz.

Resolved, That Daniel Woolpert, of the corps of invalids, Nicholas Kuhl, Daniel Murphy, John Wiley, John Wilton, Richard Swan, Henry Brink, William Van-Gorden and John Conrad Latour, have leave to withdraw their respective petitions.

Ordered; That the residue of the said report, relative to the claim of Abraham Lukens, be recommitted.

The Committee appointed for the purpose, reported a bill entitled, "an act for erecting a certain district of country in which the courthouse in Chester now stands, into a county town," which was read; and on motion and by special order, the same was read the second time, and considered by paragraphs;

Ordered, That it be transcribed, and in the mean time printed for public consideration.

The Committee appointed for the purpose, reported a bill, entitled, "a supplement to an act entitled an act for raising by way of lottery, the sum of forty-two thousand dollars, for improving the public roads leading from the city of Philadelphia to the western parts of the state, and towards the improving the navigation of the river Schuylkill," which was read the second time, and debated by paragraphs;

Ordered, That it be transcribed, and in the mean time printed for public consideration.

The Committee appointed for the purpose, reported a bill, entitled, "an act to incorporate and endow an academy or public school in the borough of Reading and county of Berks," which was read the second time, and debated by paragraphs;

Ordered, That it be transcribed, and in the mean time printed for public consideration.

The bill entitled, "a supplement to the act entitled an act for regulating the measurement of corn and salt imported in the port of Philadelphia," was read the second time, and debated by paragraphs.

Ordered, That it be transcribed, and in the mean time printed for public consideration.

On motion of Mr. Findley, seconded by Mr. Kennedy,

Ordered,

Ordered, That to-morrow be assigned for the third reading of the bill entitled "an act to encourage the manufactures of this state," and that it be the order for that day.

On motion, ordered, That Thursday next be assigned for the third reading of the bill entitled, "a supplement to an act entitled, an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed in the county of Luzerne, and for other purposes therein mentioned," and that it be the order for that day.

And the House adjourned until to-morrow half past nine, A. M.

WEDNESDAY, November 21, 1787.

The House met pursuant to adjournment.

A petition from John Etwein and John Meder, on behalf of the members of the Episcopal Church of the United Brethren, who have formed themselves into a society for propagating the gospel among the Heathens, was read, praying to be incorporated; and on motion and by special order, the same was read the second time, and

Ordered that the prayer thereof be granted.

Petitions from 753 inhabitants of the counties of Westmoreland, Washington and Fayette, read in the late House September 13 last, were presented and read; and on motion and by special order, the same was read the second time:

Ordered, that they be referred to Messrs. Clymer, Lewis, Lowrey, G. Heister, Findley, Irwin, McDowell, Philips and Schott to report thereon.

A petition from 93 inhabitants of the county of Washington was read, praying the southern parts of the same may be erected into a new county; and on motion and by special order the same was read the second time.

Ordered, That it be referred to the last named Committee to report thereon.

The memorial of the college of physicians of the city of Philadelphia, was read the second time, as follows:

To the honorable the Legislature of the state of Pennsylvania.

The memorial of the College of Physicians of Philadelphia,

RESPECTFULLY SHEWETH,

That your memorialists have seen, with great concern, the numerous evils which have followed the intemperate use of distilled spirituous liquors, in the state of Pennsylvania. They decline taking notice of the baneful effects of these liquors upon property and morals, and beg leave to confine this memorial to their influence upon the health and lives of their fellow-citizens, and the population of their country.

That among the numerous diseases which are produced by the use of distilled spirituous liquors, they would only mention—the dropsy, epilepsy, palsy, apoplexy, melancholy and madness; which too seldom yield to the power of medicine.

That where distilled spirituous liquors do not produce these terrible

and

and obstinate diseases, they generally impair the strength of the body, so as to lessen its ability to undergo that labour, either in degree or duration, which it is capable of without them.

That the prevailing ideas of the necessity and advantages of using distilled spirituous liquors to obviate the injurious effects of extreme heat or cold, upon the human body, are altogether without foundation; and that they increase the evils which they are taken to remove. That the inconvenience arising from excessive labour, heat or cold, are to be removed with much more safety and certainty, by the use of cyder or malt liquors.

Your memorialists therefore pray, that your honorable House would take the facts herein stated, into their serious consideration; and as guardians of the health and lives, no less than of the liberties and morals of their constituents, that they would enact such a law, for checking the improper use of distilled spirituous liquors, as to their wisdom and harmony may seem proper.

Signed by order of the college,
JOHN REDMAN, President.

Attested,

JAMES HUTCHINSON, Sec'y.

Philadelphia, November 9th, 1787.

After the foregoing memorial was read, and before it was referred,

Mr. *Logan* observed to the House, that when an examination was made into the situation of Pennsylvania, and the propensity was discovered of its inhabitants to the use of spirituous liquors, together with the ill consequence and bad effects both upon the morals and health of the people, he was of opinion that the college could not be too highly praised for their patriotic, nay, disinterested application to the House; for it was decidedly the interest of the gentlemen to encourage a consumption of these pernicious liquors, which in their effects created that lamentable catalogue of diseases enumerated in the address, and which must necessarily occasion a greater demand for medical abilities. He hoped the House would turn their attention to the subject, as not only the morals and health of their constituents were concerned, but their property also, a decrease of which hazarded a considerable loss to the state.

Mr. *Clymer* agreed it was a matter of importance, and should be glad to find the situation of America such, that it was in the power of a legislature to prohibit the importation of those articles. No other way presented at present but laying additional duties upon them, yet that might operate to defeat itself.

Mr. *Peters* had a kind of jealousy, which was habitual on such occasions; he acknowledged the patriotism of the college, but yet he was at a loss to perceive how it would be in the power of any officer of government to decide what was immoderate use of these articles; because what would be a high degree of excess with one, might be no more than strict temperance in another, or at most but moderation.

Mr.

Mr. *McLene* was very little acquainted with this subject, but wished if it was committed, that it might be committed to the college, who were much better informed of the means to prevent those disorders than many of the members of the House; if there was nothing improper in leaving it to them, he would give his consent.

The *Speaker* told the gentleman that it was out of order to propose referring in such manner: if indeed the *physicians* had asked leave in their memorial *to bring in a bill*, the House might then have referred the whole subject to them.

Mr. *McLene* went on—well sir, if they had applied for leave to bring in a bill, they should have had *my hearty approbation*.

Mr. *Peters*. *But they should not have had mine, for I have already smarted severely under very long ones of their bringing in!*

Mr. *Logan* would let the gentlemen enjoy their mirth (for Mr. *Peter's* unexpected repartee was highly enjoyed by both House and gallery) yet it was a subject deserving their most serious attention; if the consequences of this absurd attachment to the use of spirituous liquors was seen, gentlemen might be induced to consider it in another light. He would only mention a fact which had been communicated to him by a gentleman from Maryland; which was, that the whole quantity of flour exported from that state, would not pay for the rum imported. By an account taken from the custom-house books it appears, that within the year there has been 1,100,000 gallons of foreign spirits introduced into this state: he would beg gentlemen only for one moment to consider the consequence, if it was only on political principles, divested of that humanity which all men ought to have for their weak and poisoned neighbours: he called those liquors poison, and they were such, for in other countries where distilled spirits were either unknown or prohibited, poisons were substituted; witness the opium of Turkey and the fly misfarrow of Russia.

Mr. *Kennedy* objected to the commitment for two reasons; those were because he was no judge at all how far a man could drink in reason, or how much he might eat without being gluttonous.

Mr. *Lollar* thought the attempt vain, because the gentlemen who advocated the commitment, had told the House that when people are deprived of using spirits, that they substitute poisons—now if this was the case, it was as well to suffer the first as to compel the latter.

The Committee was appointed as hereafter mentioned, when Mr. *Peters* requested that they would consider of some mode to encourage the growth of barley and hops, as the people must and would have something to drink.

Ordered, That it be referred to Messrs. Clymer, Logan, Foulke, Chapman and Rittenhouse, to report thereon.

On motion of Mr. Lollar, seconded by Mr. Rittenhouse,

Resolved, That a Committee be appointed to bring in a bill for apportioning to the city of Philadelphia and to each county within this Commonwealth, their respective shares or proportions of sixty thousand

land acres of public lands, reserved for the use of public schools by act of General Assembly, passed the seventh day of April, one thousand seven hundred and eighty-six, and for causing the said city and each county to pay the necessary expences attending the taking up their respective proportions of the same.

Ordered, That Mr. Peters, Mr. M'Lene, Mr. Lollar, Mr. Rittenhouse and Mr. Clark, be a Committee to bring in a bill conformably to the foregoing resolution.

The Committee appointed yesterday on the petition of a number of the inhabitants of the county of Westmoreland, made report, which was read, and

Ordered to lie on the table.

The Committee on ways and means made report, which was read and

Ordered to lie on the table.

The Committee to whom was referred November 13, the bill entitled "an act to enable aliens to purchase real estates within this Commonwealth, and to lend money upon mortgages and other securities at a reasonable interest," made report, which was read, and

Ordered to lie on the table.

The Committee appointed October 22, on that part of the message relative to the expediency of granting a further time for the application of the officers and soldiers of the late Pennsylvania line, to draw for and take up lands, made report, which was read; and on motion and by special order the same was read the second time, whereupon,

Resolved, That a Committee be appointed to bring in a bill for that purpose.

Ordered, That Mr. Will, Mr. Willing and Mr. Barr, be a Committee to bring in a bill conformably to the foregoing resolution.

Agreeably to the order of the day, the bill entitled "an act to encourage the manufactures of this state," was read the third time;

Ordered, That the further consideration thereof be postponed.

The bill entitled, "an act to vest in Richard Wells and John Clifford the share or portion of the ship Anna, lately forfeited to the state," was read the third time; whereupon,

It was moved by Mr. M'Lene, seconded by Mr. M'Dowell, to postpone the further consideration of the said bill until to-morrow; and on the question, *will the House agree to the postponement?* the yeas and nays were called by Mr. M'Calmont and Mr. Dowell, and are as follows:

YEAS. Messrs. *Will, W. Mitchell, Reed, Lilly, D. Mitchell, Beale, Kennedy, Oliver, Davis, Sands, Kreemer, Burkhalter, Piper, Findley, Barr, Irvine, M'Dowel, Allison, Wright, Flennagan, Philips, Gilchrist, M'Lene, M'Calmont, Riffe, Rittenhouse, Richards, Miloy, Clark, Davidson.*

30

NAYS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Robinson, jun. Peters, Wynkoop, Chapman, Foulke, Upp, Ralston, Moore, Thomas, Evans, Willing, Whelen, Lowrey, Hubley, Work, Clemson, Erb, Hopkins, McLellan, Clingan, White, Lollar, Schott.*

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So it was determined in the affirmative.

And the House adjourned to meet to-morrow, at half past nine, A. M.

THURSDAY, November 22, 1787, A. M.

The House met pursuant to adjournment.

A remonstrance and petition from the managers of the House of employment and the overseers of the poor of the city of Philadelphia, and districts connected therewith, was read, suggesting divers alterations and amendments to the poor laws now in force, and praying the same may be taken into consideration; and on motion and by special order, the same was read the second time;

Ordered, That the same be referred to the members from the city and county of Philadelphia to report thereon.

A petition from several members of a Committee of the public creditors was read, remonstrating against the bill, entitled, "a supplement to an act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned," praying that so much of the said bill as directs the payment of the equivalent to the Pennsylvania claimants of the county of Luzerne, out of the funds heretofore appropriated, may not be passed into a law.

Ordered to lie on the table.

The Committee to whom was recommitted November 13, the report on the petition of John Elder and Robert Stevenson, made report, which was read and

Ordered to lie on the table.

The report of the Committee on ways and means was read a second time as follows:

The Committee on ways and means report,

That having obtained from the Comptroller-General a statement of the debts and revenues of the Commonwealth, they find that the debts now due and that will become due in the year 1788, amounts to £. 3,250,247.

And that the engagements of the state for the year 1788, exclusive of the requisition of Congress amounts to £. 475,706.

The requisition of Congress for the year 1788 amounts to 385,696 in facilities, and 254,100 dollars in specie.

The means relied on for the eventual payment of the principal and the payment of the annual interest and expences are,

1st, The balance that will be due from the United States upon the final adjustment of accounts;

2d, The public lands;

3d, The arrears of purchase-money due for lands bought of the late proprietaries;

4th, The arrears of taxes due to the Commonwealth, and

5th, The annual taxes and revenues.

With respect to the first, no computation can be formed with any certainty, but supposing this state to have furnished supplies during the war, in the same proportion with the other states; and admitting

it to be chargeable with its proportion of the existing debt, foreign and domestic, it would stand nearly as follows:

Amount of debt due by the United States,	£. 38,000,000
The state has possessed itself of certificates of the United States to the amount of	dols. 6,196,368
The proportion of Pennsylvania 1-8,	4,750,000
Which exceeds her proportion,	1,446,368
Balance of interest due after discharging the requisition of 1787,	380,260
	dols. 1,826,628

She will moreover be entitled to an annual interest of 85,751 dollars, upon the above sum of 1,446,368 over and above her full quota of the interest on the foreign and domestic debt.

It may be remembered here that Congress have already sold some million acres of the public lands, which of course lessens the debt due by the United States, and encreases the balance due to Pennsylvania. Nevertheless, we are called upon for our full proportion of the interest of the foreign debt, and of the expence of the federal government.

The second means mentioned is the public lands, and these must no doubt produce a considerable sum, but as certificates are made receivable for the payment, and the quantity offered for sale by the United States, as well as other individual States, is at present very great, this fund can only operate hereafter toward the redemption of the capital.

The third fund is the arrears of purchase-money due to the late proprietaries, the extent of which has never been ascertained, but is said to be considerable, three-fourths of it is made by law receivable in certificates, the other one-fourth in the money of 1781, so that this can only operate to the redemption of the capital.

A fourth revenue relied on is the arrears of taxes, which is stated to amount to £. 380,419; this appears to be due in very unequal proportions, by the different counties of the state, and the Committee have reason to believe that there are great neglects in the persons appointed to the collection, and that large sums which have been collected, are with-held from the public treasury. By the means now in operation, and some improvements which may be adopted, the Committee are informed that there may be relied on for the ensuing year from this fund

	£. 75,000
Annual tax upon property,	76,945
Duty on tonnage and passengers,	2,550
Produce of the excise,	16,000
Duty on sales at auction,	3,500
Tavern and marriage licences,	4,450
Court fines and forfeitures,	1,000
Fees, Secretary and land office,	13,800

carried over.

£. 193,245

Brought forward,	£. 193,245
Tax upon Writs, - - - - -	3,000
On pleasurable Carriages, - - - - -	2,600
On Impost, - - - - -	60,000
Debts due to the State, - - - - -	7,800

The estimate of arrears being made upon returns from the treasury to the 1st November, it is presumed that payments will be made from that time to the 31st December next, to amount to - - - - - 40,000

Whole amount for the year 1788 - - - - - £. 306,645

From whence it appears, that there will be a deficiency in the present funds, for making good the engagements of the state for the year 1788, the sum of £73,774, exclusive of the requisitions of Congress.

However *desirous* the Committee are of providing for *this deficiency*, upon the fullest consideration of the subject they can only *recommend* that the *funds already appropriated* to these several demands, should be faithfully applied thereto, and rely on the operation of the measures taken for sinking the capital.

With respect to the requisition of Congress for specie, the Committee observe, that as the state is creditor to the United States for a sum beyond her proportion of the aggregate debt, it would be unjust to burthen the good people of this Commonwealth to make good the deficiencies of other states : Nevertheless the Committee, finding a principle laid down by a former Committee, and acceded to by the House of Assembly, to wit : That the state should contribute its quota towards the support of the federal government—They recommend, that the present House make provision for that purpose. By the estimate of 1787 it appears, that the quota of this state for that purpose amounts to 59,780 Dollars, equal to £. 22,417,10

There will likewise be wanted a sum to raise and support a force destined to quiet the disturbances in Luzerne county, } _____

The Committee adhering to the principle of leaving untouched the funds of the state already appropriated, and believing that it would be improper to encrease direct taxation, propose the following means :

That the present excise be doubled.

That an additional duty of 2d. per gallon be laid on Maderia, and 1d. per gallon on all other wines.

That an additional duty of 1s. per dozen, be laid on all wines imported in bottles.

That 1d. per pound be laid on all coffee imported, 1d. per pound on all bohea teas, and 3d. per pound on all other teas.

The Committee not having the means of estimating accurately the produce of the duties, also recommend, that if the sum raised therefrom

from shall not be sufficient, that the House agree to lay other duties to make good the deficiency.

In conformity herewith the Committee submit the following resolutions :

1st, Resolved, that a Committee be appointed to report a plan for the better collection of taxes.

2d, Resolved, that the duties on excise be doubled.

That an additional duty of 2d. per gallon be laid on Madeira wine.

That an additional duty of 1d. per gallon be laid on all wine imported in casks, other than Madeira wine.

That an additional duty of 1s. per dozen be laid on all wine imported in bottles.

That an additional duty of 1d. per pound be laid on all bohea teas imported.

That an additional duty of 3d. per pound be laid on all teas other than bohea teas imported.

That an additional duty of 1d. per lb. be laid on all coffee imported.

3d. Resolved, that the duties aforesaid be specially appropriated to the discharge of this state's quota of the expence of the federal government, and for defraying the expence of the troops to be raised for quieting the disturbances at Wyoming, and shall continue for one year only.

4th, Resolved, that a Committee be appointed to report a plan for the better collection of excise.

5th, Resolved, that if the funds proposed by the foregoing resolutions, shall be found deficient, the House will make good by other funds such deficiency.

Mr. *Fitzsimons*. I could wish sir that some other member of the Committee had undertaken to explain to the House the objects of the Committee, as well as to throw some light on several resolutions proposed in the report, because sir the short time that we have had the subject before us has prevented me from going into all those particulars, which more leisure might have enabled me to do. The statement of our public debt might also have had particular attention paid to it ; but to wave this subject for the present—I have to inform that your Committee framed the first resolution of that report upon proof they had before them ; indeed it was pretty well understood without the testimony of particular persons, that the present mode of collecting our taxes was both inefficient and improper. Some gentlemen sir have stated to your Committee from their own knowledge, that collectors of your revenue have received the quotas which they were ordered to collect, and have detained such money in defiance of your commissioners, who cannot recover it from them but by the means of that course of law which is pursued in common cases between individuals. Thus sir are large sums well and regularly paid by our fellow citizens kept out of the treasury, while the public creditor to whom by your law it is payable, is lying out of it. By a law passed the last year the collector

lector is directed to return the delinquents to a justice of peace, who shall issue his precept to obtain the tax ; this has induced the collectors to go so far in their work, as to obtain the payment of the more punctual ; after which he does not choose to take more trouble, and throw the remainder upon the Justice, who is not compelled to an instant compliance with the law ; and the books and perhaps the money is suffered to lie neglected for a long time in the hand of such magistrates : To remedy these defects, your Committee have reported a resolution for making a short, simple and successful process by law, against defaulting collectors, and to enable them to obtain payment with more certainty ; the power given to the magistrates by the late law will be restored to the commissioners. The duties and impost for you observe form a distinct resolution, and when that comes before the House, if any observations or information is thought necessary, it will then be obtained.

Mr. *Kennedy* mentioned that he had been informed of collectors keeping and using the public money, and at the same time setting the commissioners at defiance, who were under the necessity of commencing a suit at law on behalf of the state. The collector had in this case offered to pay the money, provided the commissioners would defray all costs, otherwise he must wait the issue, and perhaps lose the whole in the end. Another fault he wished to prevent among them ; he understood, and in some particular instances was pretty certain, that the collectors received gold and silver in payment of taxes, which they had exchanged with brokers or with their neighbours at an advance, thereby assisting to depreciate the paper money of the state.

The first resolution was agreed to, and ordered to be referred to Messrs. Robinson, Findley and Kennedy.

The clause respecting an additional excise being before the House, Mr. *Fitzsimons* had heard that some gentlemen entertained doubts whether doubling the excise as proposed would have a tendency to increase, not to say double the revenue, because the temptation held out would grow doubly strong on the retailer ; he agreed with these gentlemen that it might have no good effect, if that source of revenue was exposed to all the contrivance now in use to avoid it ; but this he hoped to see amended in such manner, as to prevent the retailers from eluding it ; such a plan had long been in contemplation, and he had no doubt but it would be effected. Some gentlemen also had been of opinion, that it must be more certain to lay it on with the impost, and have the whole collected from the importer, but this would neither be just in its consequences nor useful to the state ; for by laying on the importer, a great part of the state would not be subject to the payment, because they would bring in their liquors by land carriage from the neighbouring states, and so elude the payment ; nor would it be useful to the state, because it would be so great an inducement to smuggling, that little or none would be entered at the custom-house ; these reasons suggested themselves so forcibly to the Committee, that they have reported their resolution as it now stands. The

The resolution was now agreed to.

The various articles subjected to an additional duty by the next resolution were agreed to, and

Mr. *Fitzsimons* observed, that the 2d. per gallon on Madeira wine, together with the duty of 4d. per gallon and 2 and 1-2 per cent, was as much as was supposed that article could bear, without holding out an inducement to importers to evade the duty; the duty of 1d. on coffee, was the principal article of ways and means, and it was supposed to raise £. 3,500 annually; coffee was part of the subsistence of the people, particularly in the towns and cities where it was a necessary of life; nevertheless if the House think it an object of revenue, they will agree to add the additional duty.

Mr. *Peters* confessed himself but a poor financier, yet said he would mention one object of taxation, at least it appeared so to him, with a design to acquire information.

There is a source of revenue that does not appear to have occurred in the report—I mean what could be raised by laying a small duty on salt; I am aware it is a necessary of life, such is also the article of coffee; the latter being necessarily consumed in towns, who also with the country, are in common consumers of the former; yet the consumption of every individual, whether in town or country, is but small, and each inhabitant will pay but a small sum; it is an article that all nations derive a revenue from, and I like these kind of imperceptible taxes, because they are paid cheerfully and without being felt; I would therefore ask for information, what objections can be stated against so light, and yet so equal and certain a mode of taxation? for I would suppose the revenue would be very great, if only a duty of sixpence a bushel was laid, and it would also be very light, because one person would hardly consume more than a peck a year; but suppose it to be a bushel, it cannot be deemed a great sum; I will therefore move a resolution, that six-pence per bushel be paid on all salt imported into this state.

Mr. *Clymer* seconded the motion.

Mr. *Fitzsimons* observed it was an object that had not escaped the Committee, but there were a number of objections raised against it; it was alleged that if you lay a duty on salt, you collect as much off the poor as off the rich, and the duty is borne also by those very people whom the several counties are obliged to support: there is a stronger reason than this—it was argued if we once went into taxing those that are consumed generally and necessarily, it would be a precedent of a dangerous tendency, and future Assemblies would be very ready to increase the revenue upon such articles, as being in common use, must be consumed, and the revenue collected with certainty; but I am of opinion, that this source of revenue is not of that magnitude which some gentlemen seem to suppose; for if there are 350,000 inhabitants in the state, at a peck each, it will give you but 87,500 bushels, and that at 6d. per bushel, would be little more than £. 2,000. I am well

well persuaded it could not exceed that sum, when it is considered that large quantities would be consumed in the back counties that would pay no duty at all : last year I remember, it was calculated to produce £. 5,000, a sum which I am confident could never be collected ; moreover this ought to be a duty of excise, for the same reason I suggested when speaking of spirituous liquors, because the importation would be by land, and those duties evaded if laid as impost.

Mr. *Glover* thought the duty on salt both just and proper—the same reasons that induced the House to add one penny per pound on coffee, ought to influence them to lay something on salt ; for coffee, though not in the catalogue of real necessaries, was become so much into common use, that it may be deemed such with propriety. Coffee and tea are to be found in the houses of the poor all over the state, but particularly in the houses of the manufacturer and mechanic in the cities and the towns. I think my worthy colleague is also mistaken in the sum which it would produce ; the statement made last year proved it to be £. 6,000 ; I don't know whether the calculations were well or ill made, but upon the whole it appears to me to be as reasonable an article to lay a duty on, as many of those already acceded to.

Mr. *Peters*. Upon my word Mr. Speaker, if I had been at a loss for an argument to prove the propriety of laying a duty on salt, the worthy member from the city (Mr. Fitzsimons) has supplied me with very good ones : he says that the revenue would be small, and it would be generally borne by every person in the state ; I think sir that is the true principal of taxation ; every one who is represented in this House, ought to contribute to the support of government, and as the duty is small, it is proper to be general. Besides, we have other means of coming at the property of the rich. This is a tax sir that must be very light indeed ; a family of eight persons will not contribute more than a shilling, let them live in what part of the state they may ; but I rather believe sir the gentleman has been stating the objections of other persons rather than his own. As for the precedent which it will set, I think if there is no other cause of opposition to the measure, *that* may be easily got over. Because we go one mile, is that a reason we should go a hundred ? or if we go as far as moderation will allow us, is it a reason that future Legislatures should be immoderate ? or if the burthen should be oppressive, may we not believe that our constituents will quickly obtain the removal ? Let us do our duty and leave them to do theirs—let us obtain revenue in the most general and consequently the least oppressive mode, and not terrify ourselves with what may be done hereafter ; as for the mode of raising it, I care nothing about it ; if it is thought better to be collected by excise, let it be collected so—it is only the principle I contend for.

Mr. *Lollar* had no doubt but they would soon hear from the people if they were to impose a duty on that article ; he knew it to be much spoken against in the country, for the people thought they had paid a much higher duty already on this article than those who lived in the

city; indeed, if it was given them for nothing, the expence of hauling would make it dear before it reached their houses—he should therefore object to the motion.

Mr. *McLene* was against it, because it was improper in its nature and uncertain in its principle. Articles of revenue were reducible to three classes; the first were superfluities, the second conveniences and the third necessaries. With regard to the first, the Legislature might go as far as they pleased, even to prohibition; on the second, they might go as far as expedient, or as fast as it was necessary to raise revenue upon them, but with no principle of propriety can we go to raise revenue on the third. Salt is an article of this class, and one of the most important. I don't think it would be more improper to lay a tax upon water, if they could catch it. Mr. Speaker, I am against the amendment, and am one of those who think it requires but little consideration to reject it.

Mr. *Fitzsimons* assured the House that the worthy gentleman from the county (Mr. Peters) had done him no more than justice, when he apprehended him to be stating the objections of other people rather than his own; he was an advocate for this very duty, though he did not believe it could be made so productive as what had been stated, but he was firmly of opinion that it was no more a tax on the subsistence of the poor, than it would be if it was laid on sugar, tea or coffee, for every person that is well acquainted with the habits of the people, knows that those three articles constitute a great part of their subsistence, and those who think it allowable to tax the one, cannot with much propriety refuse the other; and certainly no gentlemen will have objections, because it is a mode of taxation that must immediately affect their constituents as much as it does mine.

Mr. *Peters* did not wish to take up the time of the House, but he must say he was not satisfied with any of the objections that had been heard against the measure; that made by the member from Franklin (Mr. *McLene*) would equally apply against other articles, to which he has acceded, and might apply in the present case, if any extravagant tax had been proposed: he says the articles of necessary use ought not to be taxed; I would ask him if his plough horses are not necessary? yet I presume they are taxed, I know mine are; and would ask him also, if his land is not necessary, essentially necessary to his support? I apprehend it is taxed, but he refuses to have water taxed, yet I conjecture the advantages his farm possesses from the stream passing through or near it, furnishes him meadow ground, and other conveniences tend to swell the value of his farm, and consequently encreases the tax; there might be some weight in his argument, if the poor entirely subsisted upon salt, but as they do not, and the tax is but small, I apprehend the objection has but little weight; I only introduce this subject for the consideration of the House, and am not very tenacious about it; but unless I hear better arguments than any that have been adduced against it, I shall think it a proper object of taxation.

Mr.

Mr. *Logan* thought it improper, because it would operate unequally, and against the mercantile interest of the state; it would operate unequally, because more is paid for it in one part of the state than another; while the citizens of Philadelphia would be paying 2s per bushel, others in the most distant parts of the state would be paying 7s6.—It would injure the mercantile part of the state, because it tends to discourage our exports; salt fish was a staple in America, and Pennsylvania had exported some large quantities; the necessity of encreasing the exports of this country must be very apparent, and it should rather be the duty of the Legislature to encourage the use of salt among us than subject it to any tax; the extended country behind us may furnish us with great room for pastures, and Pennsylvania be enabled to rival Ireland in the exportation of salted provisions; moreover he was apprehensive that the Legislature might go on after once beginning to add one shilling upon the back of another, until it became as great a grievance here as it is in the kingdom of France.

Mr. *Peters*. Mr. Speaker I would allow a drawback upon the exports, that answers one objection; and as for a man paying a dollar for his bushel of salt, it may be so, but you will please to observe that only six-pence of that is paid on our account, which is no more than what is paid by the citizens of Philadelphia.

Mr. *Findley*. I apprehend this question may be taken in two points of view, one is the right of the Legislature to lay such duty in Pennsylvania, the other the propriety in doing it: I think the observation made by the worthy gentleman from Franklin (Mr. *McLene*) that the Legislature have not a right to tax the necessaries of life in any case is untrue; I think the state may raise revenue on every article, that is likely to yield any, but I believe other states have frequently done it improperly; indeed the necessaries must bear a tax by one means or another, as was observed by the gentleman from the county (Mr. *Peters*) indeed I was once of opinion myself that it would be necessary to have recourse to the article now under consideration; indeed I would rather do it than suffer the public business to stand still, but yet I would never agree to it unless I could not find others of a different nature; I believe for the present it can be done without, and I hope never to see the necessities of the state deserve such a sacrifice: I agree to the duties on tea, sugar and coffee, because though I admit them in some degree as necessaries of life, yet they are not so generally such as the article of salt, for besides the demand in private families for this latter article, it is requisite for horses, cows, and sheep, it is an article therefore that ought to be encouraged among us, because the more of it that is consumed, the more advantage accrues to this kind of property; it may be considered in another point of light, that is, how far it may be proper, by laying duties on foreign salt, to encourage its manufacture on our shores; because it is a matter of great concern that we should be supplied with this, independent of a connection with any foreign nation; but as there are various other articles at the present, by which a reve-

nue may be raised, I conclude that the amendment is unnecessary, because, as I observed before, this article ought not to be taxed of choice, but of necessity, and in order to justify this necessity, we must lay duties on every article of convenience to the full amount of what they can bear; we must encrease the duties on every species of goods imported, both woollens and linens must be taxed higher, otherwise we cannot be justified in agreeing to the proposed measure.

The question was now put, and determined in the negative; the yeas and nays being called, were as follows.

YEAS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Salter, Peters, Wynkoop, Thomas, Evans, Willing, Whelen, Lowrey, Hubley, Work.* 15.

NAYS. Messrs. *Logan, Chapman, Foulke, Upp, Raulston, Moore, Clemson, Erb, Hopkins, W. Mitchell, McLellan, Lilly, Reed, Clingan, D. Mitchell, Beale, Kennedy, Oliver, J. Heister, G. Heister, Davis, Sands, Kremer, Trexler, Barkhalter, Piper, White, Findley, Barr, Irvine, McDowell, Allison, Wright, Flenneken, Phillips, Gilchrist, McLene, McCalmont, Riffe, Lollar, Rittenhouse, Milcy, Clark, Schott, Davidson.* 46.

The report of the Committee of ways and means being finished, and the Committees appointed on the several resolutions,

Mr. *Wynkoop* observed, that as there was but little business before the House, it would not be proper to put the state to the expence of sitting much longer, waiting only for the report of those Committees which were just appointed; he was well satisfied of the great saving it would occasion, and hoped the House would agree to instruct them to report to the next session, that so they might not be engrossing so much of the public revenue, as they were about to raise by additional duties.

Mr. *McLene* hoped such instruction would not be given, but that the House would remain together until they had done the public business properly; he wished the bills that were ordered to be reported should be brought in and printed in the present session, that so their constituents might be informed of the duties they were about imposing agreeably to the Constitution; he hoped the Committee instead of being instructed in that manner, would be directed to turn their attention to the subject and report as speedily as possible.

Mr. *Wynkoop* knew the subjects were so important that they must engage the attention of the Committees for a long time.

Mr. *Findley* though he was pleased with the idea of saving to the state by making a short session, yet he could not consent to neglect the great object of his appointment, which was to have the public business well done—moreover, if these bills were not brought in this present session, it would be trespassing against the Constitution with our eyes open; we would be taking means to make it necessary to violate the frame of government at our next meeting, by originating the bill and passing it the same session—it is also acting without precedent,

dent, as it has been the custom hitherto always to act upon the report of the Committee on ways and means, he was in hopes it would not require many days more for the House to sit.

Mr. *Wynkoop* never wished to do things by halves, but would always desire to apply his whole attention to one object at a time; he had some consideration for the member who spoke last, but he wondered how it was possible that *that* and some gentlemen who are members of the state Convention, can expect to attend duty in that place and in this also, when both are sitting at the same time.

The *Speaker* would just inform the House that there was no business before them except the Wyoming bill, and as soon as that was gone through there would be nothing more to take up their attention, until the Committees just appointed made report.

Mr. *Fitzsimons* declared positively it was a shame to be sitting here with our fingers in our mouths, and putting the state to the expence of 200 dollars a day for doing nothing; if the Committees could report in any reasonable time, he should be very glad to have the business expedited with all possible dispatch; for his own part he should certainly give his whole attention to it, though he was well convinced the arrangements they had to make must take up a great deal of time: if the House choose to adjourn for three or four days, a saving might be made, and perhaps some part of the business forwarded.

Mr. *McLene* knew very few instances where business was done in such hurry, but what it was ill done: he thought the improvement that could be made in the present mode of collecting taxes, would far out-weigh the expence attending on full discussion and investigation. Whereupon it was agreed the Committee should report as speedily as possible.

The Committee appointed for the purpose, reported a bill entitled "an additional supplement to an act, entitled an act for the regulation of the militia of the Commonwealth of Pennsylvania," which was read the first time, and

Ordered to lie on the table.

Agreeably to leave given, a member presented to the chair a bill entitled "an act for incorporating the society for propagating the gospel among the Heathens, formed by members of the Episcopal Church of the United Brethren, or *Unitas Fratrum*," which was read the second time, and

Ordered to lie on the table.

Agreeably to the order for this day, the Wyoming bill was taken up for the third reading. The first clause being under consideration.

[See Page 111.]

Mr. *Kennedy* proposed an amendment, which was, that the force to be sent up in that country should not exceed 150 men, in lieu of the 500 proposed by the clause.

Mr. *Fitzsimons* opposed the alteration, because though it was probable, Council would not find it necessary to send so large a force into that country, yet they ought not to be restricted to so small a number, lest it might be found inadequate, and the intention of the bill consequently defeated.

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Mr,

Mr. Lewis. I am against the proposed amendment, if for no other reason but political economy : I do not fir think it would be necessary to fend forces into that country, unless this amendment or something very like it, should be the occasion of that necessity ; it is well known fir that you have a number of people in that country who have bid defiance to your laws, and by arms have opposed the extent of your jurisdiction, and fir it is equally well known, that after the large strides which have been taken to make a compromise, nothing can be effectual, but in addition to arm the executive power of government with authority to quell the licentious and abandoned part among them. We have given them, Mr. Speaker, that time for conciliation which they deserved, and which I have been happy to perceive in a great measure has been accepted of ; the remainder of the people in the County of Wyoming are not perhaps so much deserving our care or attention ; but do let me observe fir how little reason we have for such suspicion or jealousy of the operation of the Executive Council ; the gentleman who made the motion for amendment, is certainly not apprehensive that the conduct of Council will be less proper now than in other cases. I don't know any reasons why they should be confined so narrowly on the present occasion ; if their conduct has given him cause to suppose they will act improperly, it may be right in the gentleman to introduce this restriction, but fir it strikes me that if he has no ground for these jealousies or these apprehensions, it would be very wrong to have them so confined, when we are about to call our Council to defend that country from the attempts of the lawless banditti who are settled in its neighbourhood, and the conspirators who live within our territory—is it not necessary we should look forward into futurity, to see what may be the consequences of either restricting, or leaving the executive at large, as may be judged expedient ? Let us for a moment suppose that the gentleman's amendment is acceded to, and then examine what will be its consequences ; suppose Council restricted to the force of 150 men, is this not holding out the greatest encouragement we possibly can for them to make one great and ardent struggle ? I would ask the gentleman, what must be the conduct of the disaffected ? will they not be induced to call upon their confederates, to endeavour by one great and noble exertion, to drive the small number of troops out of the country ? I ask whether the daring and aspiring chieftains among them, will not say, now is the time for exertion, now is the time to forsake your ploughs and turn your pruning hooks to spears—now is the time to collect your strength, to consolidate your forces and drive that handful of men before you, who are inadequate to maintain the country one single hour : if we do this, we gain strength and energy, while we destroy the feeble powers of that shackled government in future, whose capacity is not equal to supply a force superior to 150 men ? But suppose these incendiaries find the Executive Council possessed of power and ability to fend a number equal to the purpose in contemplation, will not they say, or will they

not

not believe that when Council are unrestricted, and send 150 men who might prove insufficient, that they would send 300 more? these proving inadequate, 500 might be sent, nay they are enabled to send 1000. For Mr. Speaker, I think an amendment the other way would be more proper; finding this to be the case, every member of the Susquehannah Company, or the desperate characters among them, would find the object not worth the exertion, and would despair of the ability to continue with any effect a further opposition to our government; they would not then be encouraged to collect their strength, or continue to support a cause which must prove fruitless. Nothing sir but the policy, the mistaken policy, directed by the proposed amendment, a policy which would disgrace even children, would perhaps make it necessary to raise a single man to maintain that country: the mistaken policy of this amendment is equal to that pursued by England in her operation of the late war. It is a fact well known, that when it was intended to coerce the United States, then colonies and provinces to that kingdom, into a compliance with the haughty mandates of a British parliament, it was in contemplation to send general Amherst over; it is a well known fact that he refused to come unless supported by 20,000 veterans, and a fleet to act in conjunction with them; but General Grant persisting to pass from one end to the other of our extended continent with but 5,000 men, the parsimonious plan was grasped with avidity and adopted by the nation. Happy were the consequences that ensued, for by that means it secured to us the peace, the inestimable liberty which America in full possession now enjoys. The parliament sent over her contracted band, which only served to point out the approach of danger, and taught us unanimity. Another year elapsed, and tho' their forces were increased, yet it was only in such proportion as we could instantly acquire. Thus she gave us time to erect the standard of liberty and independence, and to assemble under it the brave and gallant patriots with which our country abounded;—thus from time to time that band increased and grew with the growing danger. The same policy which for a time gave us opportunity to increase and establish our forces, may do the same with the people at Wyoming.—To that mistaken policy it is that under Heaven we enjoy the manifold advantages that result from our glorious independence—let this be a warning to us to act with energy and decision—let not arguments be gilded with patriotism, whose consequences may prove to us the loss of territory and loss of jurisdiction—let the people of that country know that the state of Pennsylvania is determined to support her authority—since her lenity has failed, let them see that the executive powers of the state, have ability to send any force that they deem adequate to the dispersion and destruction of the conspirators. Unless the narrow policy I say sir is pursued, which the present amendment suggests, I own candidly I believe force of any kind will be altogether unnecessary; whereas if it is adopted, I see not where it will end—for if instead of shewing the disaffected the vigour of our government, you

expose

expose its weakness, the 500 troops that is first intended to be sent, may prove more inadequate than the 150 if sent without restriction; because if you encourage them in the first to collect their strength, that accession may require much superior number to the number now proposed, for when all their strength is collected, the number that may be sent by Council will be incompetent to any thing, and must wait till another party is collected, as this House may determine from time to time, as they shall be called together for the purpose. Thus by want of exertion, manliness and fortitude in the first outset, we shall entail on ourselves a long and doubtful contest; for as they grow in strength and encrease in numbers, the issue must become more and more indeterminate. To me it appears that sound policy dictates a decided conduct on this occasion, and not by restricting the Executive Council to a weak and contemptible force, oblige the state hereafter to engage in greater exertions and ten-fold expences. Nothing sir I am persuaded but the pusillanimous conduct held out in the amendment, can ever induce much opposition in that country, while Pennsylvania preserves her plighted faith with the claimants, to whom it is intended to confirm their rights. Moreover, if Council were instructed with the conducting of the enterprise, it is allowed they would be responsible for its issue; but to restrict them to the paltry force of 150 men, who will serve for little more than to apprise the conspirators of the intention of the state to reduce them by force, and serve only as an alarm to procure a combination of their adherents from various parts, so that in future we may have more to send, if not indeed the number which shall replace them. No sir I hope the House will not act with such indecision, but rather invest Council with the power to send up into that country such force as may in the first instance terminate if not prevent a war with them.

Mr. *Kennedy* was of opinion that the number of men he proposed, was sufficient to accomplish the undertaking. From conversation with Col. Pickering, he had learnt that 150 men was sufficient in his opinion; as that gentleman was much better acquainted with the situation of the country than what he pretended to be, he should think 150 men fully adequate, and moreover he thought that the people who had been settled in their claims ought to turn out and support government; in short, he had heard no good reason against his motion, though he supposed the gentleman had made the best of the argument, therefore he hoped it would be agreed to.

Mr. *Peters*. It is with very great diffidence that I rise to say any thing on this subject, because I have been so doubtful from the beginning—but for my part I am of opinion, it is best to leave the power of Council totally unlimited, and I expected rather a motion for striking out the particular number than that which is now before you. I should not have said any thing on the present occasion, but that I perceive some gentlemen cannot separate the idea of coercion from that of our necessity. Now doubtful as I have hitherto been, I flatter myself well
able

able to discover the necessity of spirited measures, I knew too how difficult it is to raise the necessary revenues, yet I do not despair on any occasion where the interest of the state is so deeply concerned. I could sincerely wish the necessary funds were out of the question on the present subject, and let gentlemen only confine themselves to that part which relates to the raising of troops. Do not let us either be more responsible in this case than we need be, and by restricting the executive powers to 150 men, leave it with them to impeach us with having rendered their good designs fruitless; it is the executive alone that ought to be responsible—let them therefore be answerable for the success of our coercive measures, if gentlemen are apprehensive that they will go beyond what they could desire, and raise a very great or considerable number of troops, more than the necessity demands—let them recollect that Council cannot wish nor pretend to go beyond the revenue we have prescribed for their expence. Thus sir are they also securely limited as to that tender point touching our public funds. I believe with the worthy gentleman who spoke so largely and ably on this side of the question, that Council ought totally to be unlimited as to the number. Sir I think if we limit the number and the expedition fails, or misfortunes come upon them, the Legislature will be altogether in fault; for Council need say nothing more than we have done as you have ordered us, and having done that, it is you and not us who are responsible for the consequences; yet why should we retain this responsibility, who cannot be collected when the danger is most imminent. I am clearly of opinion that we ought not to wish this responsibility, which belongs to them from the very nature of their office, and I think no danger can arise in suffering them to possess it, together with the power of sending any number of troops into that country, which they may deem expedient.

Mr. *Fitzsimons's* idea was, that when the House wished to carry any measure of this nature, they should leave the power unrestricted in the Executive Council; he should approve also on the present occasion that the number should be unlimited, not that Council should send in the first instance more than was by any means necessary, but that the incendiaries at Wyoming might know that if a hundred were insufficient to restore peace and good government to that district, 200, 500 or 1000 could be brought forward, and all that would be necessary, for the Legislature would be to provide funds eventually for such expence.

Mr. *Clymer* apprehended that the clause if amended as proposed, would correspond very little with the preamble, in which it is declared the duty of the Assembly to make effectual provision for the due execution of the law, and just exercise of the government of the state to every part thereof.

If the gentleman's limitation was agreed to, it would not be long before we should be obliged to remove those limits, when I believe those gentlemen who are now alarmed on the subject of expence will find

find much more cause of alarm, than there is at present, but perhaps the number of troops already mentioned in the bill are set at a higher rate than what they will absolutely stand the state in.

I have in my hand fir an estimate of their rations, pay, cloathing, removal of baggage, and every contingent expence for a twelve month's service, made by a gentleman well versed in such calculations, by which it appears that 100 men can be maintained for less than £. 5,000, and the utmost that will be necessary will not exceed £. 25,000, as each man stands the state in but a trifle more than 48 pounds.

Mr. *Kennedy* believed all those articles would amount to a great sum.

Mr. *Peters* had served his apprenticeship to those kind of calculations, and he should make it a little more than £. 48, perhaps it might be £. 50.

Mr. *Schott*. The honorable gentleman from the city (Mr. Lewis) has said he would rather make it 1,000 men than 500, and would by no means agree to reduce the number; I think fir that that number would be much more than is necessary, because I conceive the major part of the inhabitants at Wyoming are friends to the government of Pennsylvania; and those few men who have been misled, have been extremely desirous of returning to their allegiance; it would rather be making them of more consequence than they really are, by telling the world that less than 1,000 men could not preserve the peace in that district; it is likely fir, that Council will not send more than is necessary, which I apprehend will be none at all; because if the people take the oath which is prescrib'd in the second clause, there can be little doubt but that as much tranquillity will obtain there as in any other part of the state; and fir if I am not mistaken, both in my opinion and wishes, this part of the bill will be altogether useless.

Mr. *Lewis*. If the gentleman thinks that I suppose it necessary to send up 1,000 or 500 troops into that settlement, I must have been very much misunderstood indeed, for my only wish is, that the hands of the Executive power should not be entirely restrained from acting as the necessity of the case might require: I shall not take up the time of the House with entering on the subject of finance, because it is not very material on the present question; but my most anxious concern is, for the honor and dignity of the Commonwealth, to which every other consideration must give place; the true way to preserve this honor and dignity, will also be the least expensive and burthen-some way: decisive measures will nip the disorder in the bud, and those funds which would be necessary on any prolongation of the disease, will be much curtailed by an immediate application; let the people at Wyoming know your decision, and your friends will be encouraged, while your enemies will be seeking means to evade your pointed force, by a speedy flight, and evacuation of the country: the amazing load of public debt which lays upon Pennsylvania, should be one strong argument, for the present measure, as being the most saving one.

The question was now put on Mr. Kennedy's amendment, and no one rose but himself in favour of it.

Mr. *McLene* rose and requested the Speaker to state the question over again, which being done, he went on to observe, that he looked upon the number proposed in the amendment to be very considerable, when added to that of the militia.

He supposed the inhabitants of that county to be 750, of these one third might be expected to turn out, which would be 250; there are 70 militia ordered to that country by Council, and probably are there by this time; these with 150 proposed by the amendment will make 570 men, and those added to the militia which are now there, would be 750, a force fully adequate to restore good order; moreover it is well known, that you cannot enlist a single man without a half month's pay in advance, and you have not this money to dispose of; it has been said we ought to entrust the Executive Council with the execution of this measure, but council if they are to become responsible, will send up the whole number of troops that you order, or they will be much to blame: I know on former occasions, they deemed it necessary to go to the full extent of their power, in order to secure themselves from reproach.

Mr. *Findley* thought it was best to give Council that responsibility that was spoken of, and therefore it might be proper neither to insert the amendment, nor permit the 500 which stood in the clause to remain there, therefore would move to strike out the number altogether.

Mr. *Lewis* declared his intention to have made such a motion, as soon as the amendment was disposed of.

Mr. *Fitzsimons*. The gentleman from Franklin has mentioned to the House, the disposition of Council on all occasions, to go to the utmost limits which the Legislature prescribed them; this did not comport with one fact within his knowledge, for that body had been entrusted with the disposition of £15,000 for the purposes which are objects of the present bill, namely to quiet the disturbances at Wyoming, and extend the jurisdiction of the state over that County; it is well known sir that they never spent one single shilling. I only mention this to shew that Council do not on all occasions, as the gentleman insinuates, conceive themselves bound to expend all the money placed in their hands, *even for necessary purposes*.

The question being about to be put the second time on Mr. Kennedy's motion, that gentleman rose and withdrew it.

Mr. *Lewis* now proposed the amendment mentioned by Mr. Findley, to leave it in the power of Council to send what troops they deemed necessary, without being restricted as to the number; which amendment was acquiesced in.

The question was taken on the clause as amended, and agreed to.

The second clause came under consideration, (see page 125) when Mr. *Schett* moved to fill up the first blank with the first day of March;

March; he proposed this because the winters are so severe in that country as to prevent people from travelling till about that time; some desultory debate arose upon this amendment, when it was at length agreed to prescribe the time for three months, from and after passing of this act.

Mr. *McLene* proposed a similar alteration to that offered by Mr. *Kennedy*, when the bill was on a second reading (see page 125) which was rejected.

The second clause proposed was now agreed to.

The third clause was passed as it stands (page 126) with the alteration of 30 days instead of 60 days.

To reconcile the fourth clause (see page 120) to the preceding ones, as they were amended, being supposed to take up some time, it was moved to adjourn, which the House did till three o'clock this afternoon.

EODEM DIE, P. M.

The House met pursuant to adjournment.

A petition from divers inhabitants of the County of Huntingdon was read, praying Standing-stone Creek may be declared a public highway,

Ordered to lie on the table.

A petition from Jonas Phillips was read, praying he may be authorized to sell goods by public auction or appointed city auctioneer, for which he offers an annual sum of one thousand dollars exclusive of the state duties, and stating that he is ready to lay before a Committee of this House a scheme of a lottery, which he upon calculation finds will produce 54,000 dollars within one year.

Ordered to lie on the table.

The House resumed the consideration of the bill entitled "a supplement to an act for ascertaining and confirming to certain persons called Connecticut Claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned." The fourth clause was accommodated to the two preceding clauses, and then agreed to, as was the fifth and sixth following; when it was moved by Mr. *Findley*, seconded by Mr. *McDowell*, to insert the following clause immediately after the sixth section, viz.

And whereas doubts have arisen with respect to the true intent and meaning of the term acquired in the act to which this is a supplement:

Be it therefore enacted and declared by the authority aforesaid, that none but such person or persons as have made a real settlement at or before the decree of Trenton, or the legal representatives of such person or persons shall be esteemed or judged to have acquired any title under the aforesaid act, and that an actual settlement or occupancy made previous to the decree at Trenton, shall enable such person or persons so claiming, to enjoy a tract of land not exceeding three hundred acres, and the allowance of six per cent. for roads.

Mr. *Peters* was of opinion, that the great truth contained in divine writ, ought to influence the conduct of individuals, and perhaps might not

not be improper to be adopted by the Legislature—that is *charity begins at home*.

I am as much in favour of our own citizens as any person can pretend to be, and I confess if any people are to suffer, it ought to be those who are seizing the property to which they have no legal claim, unless from the bounty of the state; but we are also to consider that the object of the Legislature is to reconcile the Wyoming settlers, in order to preserve peace and extend the jurisdiction of the Commonwealth to that territory. Such I apprehend was the object of the bill passed last March, and whether that law was or was not politic, forms no part of our present consideration; but be it as it may, we are now obliged to carry it through, and must adhere to the principle of justice which is there laid down. This clause I suppose Sir is intended to serve my oldfellow-citizens, to whom I am greatly attached; by preventing our *adopted brethren*, whom I confess I do not like so well, from obtaining an accumulated number of estates in that country. Had this been the principle of the first law, it might have been proper, but now Sir that these people have come forward and laid in their claims under that law, and conducted themselves according to its direction, I cannot think the state at liberty to recede from their part of the contract. This amendment Sir bears down the principle of the old law, and appears to me very unjustifiable; but as I have not perfectly made up my mind, I shall wait until I hear the sentiments of others on the subject: but I have prepared something like what the gentleman has proposed—but it is not contrary in its principle, as I take his to be to the old law, and which if I am seconded, I will read and present to the table.

This being done, it was put as an amendment, and after stating the doubt of the meaning of the term *acquired*, it went to explain by reciting, that those should be deemed to have acquired titles who had made a real settlement, whether by themselves or by others, agreeably to the rules and regulations of the Susquehanna Company or state of Connecticut, before the decree of Trenton; and that those who were the heirs or assigns of such original settler or occupant, whether by purchase or otherwise, should be entitled to such tracts not exceeding 300 acres each, as they should establish by sufficient proof, according to the prayer of the petition upon which the original law was founded, and which prayer was constituted a part of the amendment.

Mr. *McLene* requested that the petition and report of the Committee which had been the foundation of the former law might be heard. The petition was read, but the report of the Committee was mislaid.

Mr. *Findley* had expected, and he believed a majority of the House expected something of this kind to be offered, to make the present bill go down: his amendment has been hastily drawn up at the table, and might not be so accurate as the one presented by the gentleman from the county (Mr. Peters) and as he was not so good a judge as he could wish to be of the superiority of the one over the other, he was

very willing to let them both lie over. This observation he made to induce the House to allow further time to acquire information.

Mr. *Peters* had no objection to postponing both.

Mr. *Clymer* would willingly agree to postpone them, provided they were never to be brought forward again; if one of these were, he would oppose the bill itself. Sir, if the House was to agree to the amendment proposed by the member from Westmoreland (Mr. Findley) I apprehend a very serious consequence would result; it will be entering upon ground which no Legislature has yet hazarded itself upon. To say what was or was not meant by an expression in our former law, belongs not to us; it is no part of our duty to put constructions on the meaning of the word *acquired*: having granted the occupants, their heirs and assigns, all their lots and rights they had *acquired*, upon condition that they conform with certain terms held out to them, is it for the Legislature to step in and restrict that term to what they think proper: if it is, what are the consequences sir? the Legislature after granting lands upon conditions, may notwithstanding a compliance on the part of the individual, resume that grant or so much of it as their will and pleasure may direct. I think sir it would be better to abide by the loss of a few acres more than what even the restriction allows, than thus commit the faith of the state, and moreover hazard the consequences of detaching a great number of the well affected people at Wyoming, who have complied and hitherto shewn a disposition to comply with the laws of the state.

Mr. *Frasinoux*. If the gentleman's object in moving a postponement is no other than to get information of the analogy between the two amendments, I think there is little call for the House to be detained here long on that account. This bill has been postponed from day to day, and week to week, for a long time past, in order, as gentlemen tell you, to get more and more information, yet not satisfied with the frequent postponements already made; you are solicited once more to postpone for the purpose of comparing two motions, whose objects are different; if this is a sufficient reason to postpone, the House will decide so: But I beg before that is done, to call the attention of the members once more to the objects of the bill generally. I do not consider this measure as proper sir, for any other reason than necessity; and I contend sir that necessity justified the first bill, and I contend further sir, that we are bound in every particular by what the first bill enacted; and if it was necessary at first, I consider the necessity of completing the measure to be now in existence. What was the object of the bill passed last March? was it not to prevent contention and bloodshed? was it not to quiet the settlers at Wyoming under the Connecticut claims, supposed to be enemies to your government, in order to preserve the peace of the state, which appeared in extreme jeopardy? and shall we now for the paltry consideration of a few acres of land, risque the welfare and happiness of Pennsylvania, the lives of her citizens, and that too by a breach of our plighted faith? the acres you
will

will thus save must be few, for I have too high an opinion of the Commissioners and board of property who are to decide their claims, to believe a single acre will be given that is not right; by proceeding in this manner sir, the whole business of conciliation will be defeated.

Mr Findley. I find the worthy gentleman last up differs with me in the design of postponement, because I wish only for time to examine more particularly what the other contains; but we agree sir in one observation, that it is difficult and dangerous for the Legislature to explain laws; this is true sir, but it is well known that doubts have arisen on the import of the word acquired; doubts have arisen with a number of members of this House, and it is well known that the judges have differed in opinion on this and other subjects; Colonel Pickering has had an opinion of the term acquired, which the other judges had not. We generally enact laws, and leave the explanation to the judicial department, but if doubts arise in carrying the law into execution, we have a right to explain, though it may be a right that ought not to be generally exercised. This law sir that wants our explanation was the child of necessity, for can any thing but necessity justify the Legislature in taking away the property of individuals without their consent, or without a trial by jury? I think if we give up the plea of necessity, we must give up the law—now I don't wish to destroy the law; and if it was necessary, it ought to be restricted, so as not to be greater than the necessity: I do not wish to allow so large a field for speculation. The amendment which was proposed I conceive to be necessary, and I believe the bill is also necessary, but unless this or something like it is adopted, the bill may not be enacted this session. I wished therefore sir that the amendment might be postponed, to give us time to accommodate it to the necessity.

Mr. Peters did not like half-hasty business, and was at first willing to let the amendments lie over, that the member might examine and correct any loose expressions they contained.

But I am perfectly decided sir, that unless we support the faith, honor and dignity of the state, we risque its peace and happiness in future: if I thought sir that any amendment of mine would either tend to alter, defeat or delay the business, I would withdraw it instantly.

I know sir that there are some part of the members in this House who differ very widely from their colleagues, and it was with a view to conciliate those who are so averse to the insurgents at Tyoga, and others that are apprehensive the Pennsylvania claims will be insupportable, that I introduced my amendment; but sir it will be remembered, that when I presented it I did not even pledge myself to vote for it, nor do I know that I should—yet rather than retard the great object or embarrass the House, I would withdraw; but I should expect the gentleman to withdraw his also: For if the business is not now finished, I think we had better never begun, for my own part I am willing to let the terms of the old law stand, and it was not from any doubts I had myself that I introduced the clause—I say sir let the old law be
what

what it may, it ought to stand; for tho' I find many laws that are not as I could wish them, I submit to them without murmuring, whatever my feelings may be, because I consider that they ought to be obeyed for the general good. I think in the most decided manner, that the Connecticut claimants ought to have titles to the full extent of the first law, be that what it may, but I am well convinced that if the word acquired is explained in the most extensive sense, but a few persons will receive more than 300 acres. I know a different opinion obtains in the House, but without any other foundation I apprehend than mere surmise; to be sure sir I will grant that neither the commissioners, nor any other person, know precisely the number of these claims, yet I conjecture it will be allowed, that they are better able to make the estimation after being upon the spot, and receiving the number they have already done, than any of us, who know so little of both the country and the people. By the short extension of the time already agreed to by the House, in which claims are allowed to be exhibited, I apprehend there is small ground to expect these applications will be numerous, even if the commissioners are properly supported in the exercise of their duties, so that there is less occasion for this restriction, than there would be if the claims were allowed to come forward for a longer time hereafter. I think very little alteration if any, in the quantity of land, could take place; at all events I am for supporting the old law, and not for joining in what must involve a breach of public faith with even a single individual.

Mr. Findley. Where it is matter sir that related to myself, and the public interest was out of the question, I might be induced to meet the gentleman on the good-natured ground he has proposed, but in this case sir, was I even disposed to withdraw it, I believe it would amount to nothing; for I fancy some of this kind is expected—I know it has been much talked of by members on both sides of the House. I do not think sir there is any ground for complaint on the score of tardiness; on the contrary, it must be on the side of expedition, and I apprehend our Constituents will think the same, however there is certainly some necessity as to the time, but it would not have occasioned a longer delay than to-morrow. The gentleman from the city alleges, that the term acquired ought not to be restricted, yet the intention of the first law ought to be complied with; this is the object of my amendment, for as doubts have arisen even among the judges, of the meaning of the word, they may be supposed to have been misunderstood by the House; and I would appeal to the gentlemen present, who were members of the last House, for their opinion of what was the intention of the Legislature, whether their lots were not supposed to be but 300 Acres: I am very certain sir that such was the intention.

This law I have already observed was the child of necessity; being such it cannot be supposed so perfect as it ought to be—many people are of opinion sir that the whole plan is indigested, and I am one who am of that opinion; and I think there is room to believe that the term

acquired

acquired was *insiduously* inserted in the law : I did think that our plain and only meaning was, to allow no more than one right to each settler ; no man occupying land under Pennsylvania, could be entitled to a greater quantity, then what right is there to allow more to these people ? yet fir the judges themselves acknowledge, that they have admitted some to have 6 or 8 shares or lots, and I don't know how many more. Why fir, on this principle of allowing them all they have acquired, I don't see where it is possible they are to stop ; if the lines of the county itself are found to circumscribe their demands, it will be happy for us.

These considerations give ground of suspicion and jealousy, when we must not explain a law that cannot explain itself.

That this law fir was designed upon the principle of conciliation, I admit ; and that it is a valuable consideration to reconcile the people to the government ; but why don't we extend the principle fir, and take in the half-share men ? yet the term *acquired* may be construed in some manner to apply even to them ; why fir don't we accommodate the whole ? I admit we cannot ; and I admit it would be improper—but yet such is the effect if the term *acquired* rights, as defined and explained by the conduct of the judges in allowing so many claims to one person. My judgment tells me this is going beyond what was the intention of the Legislature, and if the members are also clear to decide I am willing, and will therefore withdraw my motion for postponement.

Mr. *Fitzsimons*. As I was by no means in favour of postponement, I am glad the motion is withdrawn. I would just beg leave therefore to observe fir, that the gentleman gives as a reason why the House should adopt his clause, that in several instances the commissioners have admitted 8 or 10 claims made by one person ; if the commissioners have admitted such claims, I venture to pronounce it was in obedience to your law ; and those claims were made as heirs or assignees of original settlers, before the decree of Trenton—this fir I take to be the clear and plain import of the word *acquired*, and I am surpris'd how the gentleman can torture it to make it appear otherwise.

I hope the House do not mean to make a distinction between alienated and unalienated rights ; for certainly the purchaser of an *estate* has as good a title to it as the original occupant or holder ; but moreover your faith is plighted to these people by the express words of your former act, where it is declared, that you will confirm all these lots to the heirs and assigns of the first settlers or occupants.

It is true that I considered these people as intruders, but then they did not consider themselves such ; they had the claim of occupancy or first settlement ; a pre-emption is a right in many instances ; many other persons settled within the state of Pennsylvania, have no other claim. These had settled themselves under the state to which they belonged, had conformed to the rules and regulations laid down for that purpose, and absolutely paid a valuable consideration to the state of Connecticut for what they thought were good titles ; many of them have been several years living there : the mere settlement was supposed in Pen-

sylvania to give a right, but these people have been confirmed in their right by an express law : the half-share men were invited by the Susquehannah Company, for the particular purpose of keeping possession of the county, not only in defiance of the laws and authority of the state, but in direct opposition to all good government, and I believe no gentleman in this House had ever an intention to reward these people—the other class were tenacious of their property, because they have purchased or procured it by that mode which our sister state had directed. But I would ask the gentleman what will be the consequence if his motion is enacted in the law ? The people in that country whom you intend to conciliate, and many of whom in fact are now your friends, will disengage themselves from you, declaring they can have no confidence in a government that refuses to confirm their own contracts : great pains are taken to seduce them from their allegiance, and it wants but such a mistaken, nay, unjust stroke of policy as this, to throw the whole country again into confusion and disorder. They are already told that there is a strong party against them throughout Pennsylvania ; jealousies are already sown amongst them, and this will be a weighty proof.

The gentleman tells you that the former act was ill digested, and the plan was bad ; if sir the last was an impolitic law, let us make no more such ; but if it was policy, true and necessary policy at that time, when the danger of an increase of force on their side was so very much to be apprehended, and if that necessity exists, by the peculiar temper and situation of the settlers at Wyoming, let the principle of conciliation be continued ; and this when aided by a small force, will restore harmony and contentment to that district—for disorder is to be principally apprehended from them, who having little to lose, but much to gain, by an effectual opposition to your government, will be the most mature for acts of violence and outrage. I hope when gentlemen reflect on the dreadful consequence of setting this business afloat, and the injustice that is about to be done, they will agree to reject the motion.

Mr. *Findley*. I rise merely Mr. Speaker to explain some words which I used, and which I think have been misunderstood—when I mentioned the half-share men, I meant that the principle of conciliation would apply to them, and not that it would be proper to go this far ; with respect to the people claiming more shares than one, I believe the gentleman charges me with saying there were 8 or 10, but if I don't forget, I said only 6 or 8, tho' the principle that admits them may admit any number whatsoever.

Mr. *Lewis*. I have taken no part in the debate which has already taken place, because I thought the gentleman was so little satisfied with his own production, that he would withdraw his amendment. I am really apprehensive sir that if this offered by the member from Westmoreland, is adopted, very serious consequences are to be dreaded—and that it will even be more difficult to understand the explanation,

planation, than it is to understand the term intended to be explained. One thing Mr. Speaker is clear, the Legislature of Pennsylvania seeing the situation of that part of the country, comprehended under the name of Wyoming, thought proper to pass an act, confirming titles to certain settlers and others, to lands within their jurisdiction—this I say is certain, and whether the words by which it has been done are clear or doubtful, I cannot see the distinction; the terms you held out to the Connecticut claimants have been complied with on their part, and it remains only for the state to complete hers.

A difficulty is now supposed to have arisen on the term acquired—the Legislature are about to determine its meaning, and say it is to be understood in one particular manner—these persons will tell you that, is not our opinion of its sense, and therefore let it be left to the proper tribunal, who alone are competent to expound your laws. They will say we accepted our rights under your former laws, in which the faith of Pennsylvania is most solemnly plighted, and the confidence which we reposed in that plighted faith, was the reason that induced us to lay aside our arms, and pursue that occupation which peace and good government had enabled us, under the fullest conviction that Pennsylvania could never desire to retract from her engagements—they have a right to say if that clause should be adopted, that here is a breach of the public faith made by the Legislature of 1787, that can neither redound to its honor or advantage—at a former day you admitted the fullness of our claim, but at a future day you by an explanation counteract the justice of the former law. The engagement entered into with the Connecticut claimants, is of the nature of a compromise; that state of which they were formerly citizens, claimed the lands on the northeast branch of the Susquehannah, as falling within her charter, tho' really within the chartered boundaries of Pennsylvania; but a number of her inhabitants had actually settled themselves upon the lands, yet a number of our fellow citizens had purchased of the late proprietor, the very lands so settled; these interfering claims have proved the source of discord and bloodshed, for a series of years in that distracted country—to quiet these the act passed last March was intended, in which the state engages if the settlers will perform certain conditions, that she will on her part *confirm such of the Connecticut claims as were* ACQUIRED BY ACTUAL SETTLERS, *prior to the termination of the said dispute*, AGREEABLY TO THE PETITION OF A NUMBER OF THE SAID SETTLERS. After engaging thus far, the law goes on to declare they will confirm all of these titles to either the HEIRS OR ASSIGNS of such actual settler or occupant, as would be entitled to lots according to the rules and regulations then among them.

The solemn faith of the state thus pledged, is not for us to retract; and if there are words of difficult meaning used in our contract, it must be left to the judges of the law and of the English language to explain. There is neither propriety nor necessity for the Legislature to employ their time on this subject; but if the principle is once admitted, there

there is no knowing in what it may end—beside I apprehend the precedent for such conduct can be discovered but in the annals of despotism, where the justice to be measured out to the people depends altogether upon the will and pleasure of an imperious and haughty tyrant. The archives of republics furnish them not, and shall the Legislature of Pennsylvania pursue a measure that her sons must blush to own? The clause which is now proposed has all the effect of an *ex post facto* law, and I flatter myself cannot find advocates among the representatives of freemen.

Let me now enquire if it will be a difficult matter for your law officers to define the meaning of the term, acquired rights; these rights in the first place being those of persons who were actual settlers in that country, previous to the degree of Trenton. Now we know there are a variety of ways by which a person may acquire rights to lands:—He may acquire by bargain and sale of the first or any subsequent proprietors under the laws of Pennsylvania, by warrant and survey, and formerly under the practice of the province by occupancy, by lease and release, by fine and recovery, all of which are in the legal sense of the word, acquired rights, and the act of Assembly will extend to all these cases. Here is a term of known and positive meaning; and say these people, we understand it in the plain and common sense which it bears. We under this idea, accepted your terms—and this is what I say was a compromise held out to them. Where then will be the faith of Pennsylvania, if the Legislature should now pretend to affix any other meaning to the word? if it was the intention of the former House to have restricted the sense of the word, it should have been done at that time, and then these people would have not been deceived. As the matter stands at present, I do not see what is to be done, but to leave the law to the determination of the judges. I wish to save the public property of the state as much as any one within these walls, and I sincerely hope that this word is not of a nature to include many cases; but be that as it may, be the quantity of land to be given under it great or small, it is alike as to the principle, and it is the principle that I contend for. I consider the faith of the state pledged to these persons, to confirm all such claims as they may have, whether in their own rights as settlers, or as assignees of settlers, according to the express declaration of the law. I consider this amendment as an *ex post facto* law, and an *ex parte* interference too; therefore, I have no doubt but it will meet the disapprobation if not the detestation of every deliberate and thinking man. It is for the reasons I have already mentioned, that I shall vote against the amendment, though there are other reasons that might operate collaterally with them; for I take it sir, that by this attempt at parsimony, you not only endanger the future peace of that settlement, but absolutely give away more property by the attempt at restriction, than what it can possibly retain.

Mr. Findley. The principle on which the gentleman rests his opposition, I mean the general principle, would apply with equal force,

may with superior force, to this business altogether—for the first law was certainly a breach of the faith of Pennsylvania; but I believe it is not wise to talk much about it: I know our Constitution did not justify the law, for our faith is as solemnly pledged, not to make a law subversive of the rights of our own citizens, or to abolish a trial by jury: nothing I believe but the necessity, as I said before, can justify it; and necessity, unhappily for us, exists at the present.

The gentleman denies not only the power of the Legislature to explain terms in its own laws, but denies a precedent. I believe sir we have not far to look for a precedent—the late House I believe passed a law to explain what was meant by actual settlement, and no doubts were entertained at that time, though there were gentlemen of legal knowledge in the House, of the power of the Legislature to explain the term. I acknowledge the abilities of the gentleman who spoke last, and have no doubt but all those kind of rights which he enumerated are acquired rights, but I believe it was the intention of the late House, to confirm them to rights acquired by actual settlement alone; but I contend that the bill had no other plea to sustain it than that of necessity, and if it has now become necessary to explain it more precisely, the same principle will justify the amendment. The process established in this case, is not the same as a course of common law, and therefore that part of the argument which relates to the decision of the judges does not apply.

Mr. *Lewis*. Whether the former law was or was not justifiable on any other principle than that of necessity, I look upon as foreign to the present subject. If there is any honorable gentleman who thinks that necessity did not exist, or that there is no occasion for the law, let them set about the repeal; but as none think it prudent to do so, I shall consider it as an existing law, in which the faith, the honor and credit of the state are irretrievably pledged to the Connecticut claimants, for the full and effectual confirming of every claim admitted under that law, whether it be acquired by any of the means I formerly mentioned or otherwise, provided that the claim is supported by proper proof that it is such as comes within the meaning of the law. The gentleman admits the principle will apply in ordinary cases, that the House ought not to rescind its engagements, but seems to infer that we are more at liberty on this occasion than on any other, but I contend that a breach of faith on this occasion is of much greater magnitude than on common occasions. The persons who are injured in ordinary cases, if it is ever necessary to injure any, must be injured by their immediate representatives; but in this case these people were not represented; they had no person on this floor when your law passed, and they will complain of being trepanned.

The gentleman alleges sir that this is not the first instance of the Legislature having explained her own act; this sir appears in the case he has alluded to, quite out of point; for sir that explanation was not an explanation of a law, but merely extending to certain actual settlers

within the tract purchased at Fort-Stanwic, determining the right of preemption to the lands they occupied, provided they made application within the time limited by the act ; this was explaining a right which had for a number of years obtained in Pennsylvania, from the lenity and goodness of the proprietors, who indulged every person that occupied or settled on their vacant lands, to have a title to the same ; but these persons being alarmed by the practice of some others, under a law of the state, who were taking out patents for the very lands the occupants had long held and improved, it was judged proper by the Legislature to continue the right of occupancy, and giving the person a pre-emption, provided he applied within a certain time. This I apprehend is essentially different from taking away rights which have been bestowed by law. The gentleman cannot think that inferences drawn in this manner can have any weight with the members of this House, who have too much good sense to be misled by any person's bare assertions.

Mr. *Peters* was decided for doing his duty ; as a private person he might be inclined to this or that side of the question by his feelings for individuals, but as a Legislator he must do that and that only which the public good demanded. If in private life from motives of convenience or any other, he made a hard bargain, he should think it his duty to stick by it, and he conceived himself equally bound to stand by the bargain of the Legislature, however his private wish might be to save expence, yet justice must be adhered to. If the Legislature have made a hard bargain with these people, it must even remain so, for he could by no means consent to any alteration being made, unless it was mutually acceded to ; but this he thought might be put in a clear point of view, if he could only engage the attention of the House while he read a part of the petition on which this business originated, and then some part of the law connected with it ; this he thought would be fully sufficient to satisfy the House, of the great impropriety of the restricting clause proposed by the members from Westmoreland.

He went on to read the petition presented to a former House, in which the Connecticut claimants state that it had been usual for them to lay out their settlements into townships of five miles square, which were usually divided into fifty three lots, containing about 300 acres each, three of these lots were set aside for a parsonage &c. the remainder were the property of the purchasers, and it was a custom that when twenty-five persons were inclined to go upon one of these townships that upon payment they had one share to settle on, and another of the fifty provided they paid the further purchase money, as it was not the mere settlement, which gave them a right, even under Connecticut ; there were certain other rules and regulations amongst them obtained in the settlement of the land. They then went on to pray the House would be pleased to grant them these rights, as well as the heirs and assigns of others of the first settlers, who might have transferred their claims before the decree of Trenton, and they would in that case become true and faithful to the state of Pennsylvania.

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This petition Mr. *Peters* observed was so clear, that no doubt could be had by the former House of what they were applied to for, and this would be fully illustrated by a few extracts from the law; in the preamble it is recited that a number of the inhabitants of Connecticut had settled upon and improved divers tracts of land, *lying on or near the north east branches of the Susquehanna*—and that parts of the same land have been claimed under titles derived from the late proprietaries, and the interfering claims have occasioned much contention, expence and bloodshed; and the Assembly being desirous of putting an end to those evils, by confirming such of the Connecticut claims as were *acquired by actual settlers*, prior to the termination of such dispute, AGREEABLY to the petition of a number of the said settlers.

Mr. *Peters* would repeat the words AGREEABLY to the petition of a number of the said settlers; this he would think might put the matter beyond a doubt, but he would go on to the body of the law, where it is enacted “that *all the said rights or lots* now lying within the County of Luzerne,” and he would have the gentleman not entertain an apprehension that it was intended to admit these claims to be laid all over the state, “which were occupied or acquired by Connecticut Claimants, who were actually settlers there, at or before the termination of the claim of Connecticut by the decree of Trenton, and which rights or lots were particularly assigned to the said settlers, prior to the said decree, agreeably to the regulations then in force among them, be and they are hereby confirmed to them and their heirs and assigns.”

After reading this far he did not think it necessary to add a single word; the gentlemen could from this judge, whether the amendment was or was not a breach of the public faith, but from the best information he had acquired, the saving intended by the amendment must be very trifling.

After a silence of a few minutes Col. *Lowry* requested the report of the Committee on that petition might be read.

Mr. *Findley* was of opinion that there was no reason to have recourse to the petition, because the law surely was not to answer for the petition, nor be explained by it; was it possible that a petition could restrain an act of the Legislature? in short we have nothing to do with the petition; but yet I would just observe that it mentions a right to be about 300 acres; well then, can it be said that from the very words of the petition they expected four, five, or six hundred acres? I apprehend they did not, and I am pretty certain the House had no idea of giving more than that quantity; I would ask gentlemen what was the object of the former law? whether it was not to conciliate those people? this I expect will be allowed on all hands, and happy would it be for us if they were conciliated, but sir they are not; the act of driving away your Commissioners proves that they were not.

Well sir if this law has not had its usefulness, since we have not been successful as we wished to be, in quieting these people, let it not
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be urged as an argument that we have deceived them, that we are breaking our faith with them; repeated instances have been given of a preference to these, over those who claim under Pennsylvania, let us therefore cease extending it further; they have got a reasonable quantity of land to answer this wish; I don't say they got it unfairly, because the Legislature gave it to them. I have said before I do not wish to enter on the subject of right, nor do I, but if we set aside real rights, and that without trial by jury, can the power of the House be doubted to set aside *acquired* rights? it was a dangerous precedent, since in quieting our neighbours we have dissatisfied a number of valuable citizens of our own.

Mr. *Clymer* being in some degree instrumental in procuring the former law, wished to be heard in a few words on the subject. One gentleman (Mr. Peters) said he did not like the law, but he would submit to it as he found himself strapped about the neck with it; another gentleman (Mr. Findley) goes farther, and declares the law to be a violation of the constitution; I know nothing in the constitution adequate to repel the dangers that may arise from insurrection, but I am certain that the power held by all nations extends to every measure necessary for the preservation and safety of the government, and therefore authorise a law founded in state necessity. It has been conceived by that gentleman, that this law was necessary from the danger to which we were then exposed, and without a law of this kind I apprehend that country would at this time be totally separated from our dominion. I say there was a necessity for this law, and those persons ought to be most silent who were instrumental in producing that necessity; those who have exerted themselves from time to time to defeat every measure that has been for some years past proposed, unfortunately for the state their opposition has been adequate to this end. When it was in contemplation to use other means, a party in this state opposed it, and defeated the intention. For it is a well known fact, that the friends of good order were obliged to give up their attempts to restore the defeated Pennsylvania claimants to their property. When this had been effected, it only procured an addition of force to the settlers at Wyoming, and we were, by such policy, reduced to the necessity of giving up to those people a part of their claims, in order to put an end to the numerous evils with which that settlement was surrounded.

It was state necessity alone that compelled the measure, a necessity that arose from the opposition given by certain persons to coercion. And I would beg to observe further, that those persons who forced this act upon the state, are now most desirous to prevent its operation, knowing if they can defeat this, the country will be involved once more in contention: if their object sir is not to embroil the state, it is impossible to ascertain what it is—but their conduct appears to me similar to what it was when they opposed the former measure, and I have no doubt but their object is the same, though they pursue another mode of accomplishing it.

Mr.

Mr. *Peters* thought it very hard that the gentleman should be so severe on him, as he was not in any former House.

Mr. *Clymer* assured the gentleman he had not the least allusion to him.

Mr. *Peters* did not know who was meant, however he should not meddle in any person's affairs, but really he believed the gentleman (Mr. Findley) had brought the amendment forward on the best principle, and conformably with his duty, tho' at the same time, the motion might have very ill effects if adopted, and go in a great measure to unninge the whole business. The law we have now under consideration appears to me better without this addition, and I wish it may be thrown out if the gentleman persists in his refusal to withdraw it; all such definitions and explanations as this, he suspected only tended to embarrass the House, and prevent that calm deliberation, which appeared at the present moment essentially necessary to preserve the peace and happiness of the state. I shall say nothing fir about the policy of the former law, but leave that to the gentlemen who were engaged in making it; but this I say fir, that be it good or bad, the faith of the state is irrevocably pledged to the Connecticut claimants, to confirm to them all their claims *acquired* before the decree of Trenton.

The gentleman from Westmoreland (Mr. Findley) says that the petition on which the law is founded, has nothing to do with the law; if that is so, then I don't understand the English language—if the law using the express words “agreeably to their petition,” and then has no reference to it, I am at a loss to know what their meaning can be. The preamble of all laws, according to the directions contained in the Constitution, contain the reasons of the law: this law was passed to prevent further contention; in doing which it was deemed expedient to grant the Connecticut claimants their lands agreeably to the prayers of their petition. If that was not the intention of the House, we cannot help it, for so stands the law. The commissioners appointed under the law, have explained the law by what was found in the petition; in doing this, I apprehend they did right, for the law grants their claims “according to the rules and regulations among them,” and these rules and regulations are alluded to particularly in the petition. Thus if there ever was a necessity for the law itself—there is a greater for adhering to it, because it will not only dispose these people to be again your enemies, but also you will break that faith which the state of Pennsylvania has solemnly pledged to the settlers in that country.

The gentleman has told you fir that the commissioners do not agree with each other in their exposition of this particular part of the law; but this does not comport with what I have heard, for in this fir they have agreed to explain the law by the petition. He also tells you of seven or eight shares which have been admitted to one person. I believe the fact is fir that four or five have been advanced if not allowed, and that seven or eight shares have been heard of by the gentleman and some of his associates, but they never were put in; yet if seven, eight

or twenty claims were derived from original settlers, the expression of the law admits them all, and it is proper they should, because the claim of the purchaser should be equally valuable with the first settler.

As for the Pennsylvania claimants, I think also from the law as well as from justice, we are bound to grant them a just compensation—and the Connecticut will no further affect the Pennsylvania claimants, than it affects the state: In short, the law ought to be fully complied with, as it respects the Wyoming settlers, and full and ample justice ought to be done our fellow citizens, who suffer either a loss or diminution of the then property in that country, in consequence of state necessity.

Mr. Lollar. I observe sir that it is argued, if the House agree to the explanation of the term *acquired*, that we are guilty of a breach of the public faith; for my part I am as tenacious of public faith as any person, but I cannot in this instance suppose that there is any ground for such apprehensions: let me ask the opponents of the amendment introduced by the gentleman from Westmoreland, whether these Connecticut claimants, to whom such promises were made, ever yet complied with the terms upon which the Assembly undertook to confirm their claims. I believe sir no gentleman can say they have; but there is a fact before us that may tend to prove they have not accepted those terms, for you find them driving off your commissioners, who were particularly attending to hear and grant the claims they might present. They have sir expelled the commissioners, nor do I believe they dare at present return—Then I can't see how we are bound to support a people, who so far from complying on their part, have behaved the very reverse, therefore I shall be for the amendment; tho' had they fulfilled what was expected of them, I would be as clearly for supporting the former measures as any gentleman on this floor.

As for the observation of fixing the explanation of the law upon the petition, I shall only just observe, that if every law was to be governed by the petitions, it would be an endless piece of work.

Mr. Lewis. This appears to me a matter of much importance; the more I hear and the more I think on this subject, the more alarmed I become for the consequences, and the more I am convinced of the impropriety of any alteration of the original law; for whether this alteration takes place by a direct clause in the bill, or by an explanatory one, I consider of little moment. When our faith stands pledged to any person whatsoever, it ought to be touched with a fearful and trembling hand, let the variation be ever so trivial. It appears to me now that it is a matter of no considerable difficulty to explain the term *acquired*, even by the construction which it is meant to have in the law. It appears from the petition on which this law is grounded, that the people of Connecticut were accustomed to establish their townships in a certain mode; under this the settlements had taken place at Wyoming. When the persons came forward and requested of the House to confirm their claims, this was agreed to by the Legislature, and the law recognized the petition, and determined that their claims should

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be decided agreeably to the rules and regulations among them alluded to in their petition. Under this law the commissioners have proceeded to receive the claims of such of the petitioners and others, who either chose or had time and opportunity to apply; and in doing this, they have found it necessary to explain the law by the petition; this *is* perfectly legal and consonant with their duty; for *is* this is not the first law that has reference to matters without itself. The member from Montgomery (Mr. Lollar) denies this explanation to be a breach of the public faith, because the Connecticut settlers have not accepted our terms, but drove off the commissioners—if we were satisfied that they had not accepted our terms, it would be a foundation for repealing the former; yet I should even think they might in that case be entitled to further lenity. But has it not been said by an honorable gentleman the other day, that there were several hundred of militia there, on whom much reliance was to be had, as they had received a large benefaction of the state? If this is so, some of them must have accepted the bounty of government; and are these well-affected men, who have delivered in their claims, and supported the laws for some time past, to be given up? are rights which have been admitted, to be wrested from the holder by an explanation of the nature of the amendment? no *is*; if but one person had submitted his claim, had offered himself, sooner ought the state of Pennsylvania, and more honorable would it be for the Legislature, to suffer a loss of ten times the value of the whole county of Luzerne, than by stabbing its public faith, suffer one individual to complain of her injustice, and violation of her sacred engagements. The Legislature have a power to explain what shall be the meaning of her laws in future; but that ought not to extend to claims already presented. The civil law says, that the judges may explain after they have pronounced sentence, but the common law of England, that great and inestimable privilege which both that country and our own enjoys, admits no such thing. No, you shall not by explanation trepan us into the commission of crimes, which at the time of acting were not defined as crimes. Nor while I have ability will I ever sit still, and see this valuable right of my fellow-citizens prostrated either to a judicial or legislative authority. The civil law *is*, despotic as it is, would not extend so far as the questions before you—this is going a length *is* that would disgrace not only any Legislature in the United States, but every government that has the least veneration for its reputation in the eyes of the surrounding nations.

I will not point out at present the loss it will occasion, but shall object to the amendment upon the principle I have already spoken of, which I think is a matter of such high consequence, as to be sufficient ground for the House to decide not only against this, but every other amendment which shall have a breach of public faith, either for its basis or its consequence.

Mr. Lollar granted, that if any had complied with the act, they ought

ought to be allowed their claims, but it did not appear they had.

Mr. *McLene* was of opinion, that if any considerable number had become the friends of Pennsylvania, in consequence of having put in their claims, they might do without the great number of troops which gentlemen seemed to have advocated; for the gentlemen would have us believe there are this great number, but I think they are very few; for on the election for militia officers, you find the superior one had but a bare majority of three votes, against one of the most active of the incendiaries; and at the election of inferior officers, those persons have put in all Franklin's friends; this shews the pulse of these people, when every man that they choose to any station in there power, are your enemies.

A good deal has been said about the petition that was presented to the former House: I suppose there was a report also of the Committee to whom the petition was referred; this report cannot now be found, but I believe there is great difference between it and the law that was brought in in consequence of it. I should be glad to know how this difference arose, and as this law has not had the effect which was intended, I insist upon it that it is in the power of the House, and also our duty to explain it.

Mr. *Clymer* could give the gentleman satisfaction as to the difference between the report and the law; the bill had been brought in agreeably to the report, but at one of its readings it was altered by a vote of the House, for reasons that suggested themselves to the members at that time.

Mr. *Schott* observed one of the gentlemen had inferred from the commissioners, having left that country; that there were no friends to the government of Pennsylvania in it, this he apprehended was not well founded, for to his own knowledge it was the wish of a great number of very respectable persons in that settlement, that they should remain and continue in the exercise of their duties; and for the persons who rose and drove off your commissioners, were another set of people collected by the friends of that man (Mr. Franklin) now confined within yonder walls; their numbers however were extremely small, and all of them dispersed the next day; they also made every concession that was in their power, promising to behave themselves in future, and pay a due obedience to the laws of the state; and I am well-disposed to believe, that had the commissioners returned into that country, they would never afterwards been molested; so far as my knowledge extends of the dispositions of those people, they are well satisfied of the proposals made by the state, but I believe they would be very sorry to find such an alteration as is proposed by the member from Westmoreland; however I shall say nothing farther, but I hope gentlemen will consider seriously, before they agree to a vote that may lead to a breach of faith, which I conceive will be the case if the proposed amendment is agreed to.

Mr. *Peters* would only observe, that the friends of government in that quarter, for want of being properly consolidated, could not perhaps

haps assemble to repel the sudden invasion of the persons that made the attack on the commissioners; far be it from him to defend the guilty, but he thought some extenuation might be offered—but though these men did not incline to give government the full support which they ought to do, it was but a poor excuse for the state to break its faith with them.

Mr. Findley. I should take some notice of what has dropt from the gentleman from the city (Mr. Clymer) but that I do not think his reflections very material, where he charges some persons of compelling the late law, by their opposition to coercive measures. I shall only say for my own part, that I have always acted conformably with the duty I owe my constituents, in doing that which I judged most proper.

Mr. Clymer. What I observed did not apply to that gentleman in particular, it applied to the history of this business generally; for what I stated, is well known to every member, who is at all conversant in the politics of Pennsylvania. I say every attempt that has been made for two or three years past to settle this dispute, has been uniformly opposed by a particular class of people in this state, and therefore it was fir that the law passed last March, became necessary; and I assert again fir, that that law was a wise measure, after the former intention had been defeated—that it has had good effects, and will continue to have good effects towards securing the peace and happiness of the state, while the amendment will have the direct contrary effect.

The question, will the House adopt Mr. Findley's motion? being put, the yeas and nays were called, and are as follows, viz.

YEAS. Messrs. Logan, Wynkoop, Chapman, Upp, Ralston, Moore, Lowrey, Hubley, Clemson, Erb, Hopkins, W. Mitchell, Lilly, Reed, Clingan, D. Mitchell, Beale, Kennedy, Oliver, J. Heister, G. Heister, Davis, Sands, Kreemer, Trexler, jun. Burkhalter, Piper, White, Findley, Barr, Irvine, M'Dowell, M'Calmont, Wright, Flenneken, Phillips, Gilchrist, M'Lene, Riffe, Lollar, Rittenhouse, Richards, Miley, Clark, Dawson.—45.

NAYS. Messrs. Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Salter, Peters, Foulke, Thomas, Evans, Willing, Whelen, Work, M'Lellan, Schott.—15.

So it was carried in the affirmative.

Ordered, That the further consideration of the said bill be postponed. And the House adjourned to meet half past nine to-morrow.

FRIDAY, November 23, 1787, A. M.

The House met pursuant to adjournment.

The Committee appointed November 1, on the petition of Mary Bioren, made report, which was read, and

Ordered to lie on the table.

The House having resumed the consideration of the bill, entitled, "a supplement to an act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes there-

in mentioned"—Mr. Fitzsimons presented to the chair a petition from divers owners of land within the county of Luzerne, and a letter from Timothy Pickering, esq; one of the commissioners appointed under the aforesaid act, which being read,

Mr. *Peters* moved for the postponement of the clause before the House, in order to reconsider the explanatory clause introduced last night by Mr. Findley, and adopted by the House; he apprehended the mischievous tendency of that clause, would go so far as to unhinge the whole business.

Some conversation arose on this subject, but as information was the object of the members, it was agreed to alter the motion for a postponement, in order to introduce the commissioners who had been appointed to execute the law past last March, for quieting the Connecticut claimants: and it was judged unnecessary to contend now for that consideration, because when the House were better informed, it might be their unanimous wish to throw out the clause. A further conference took place on establishing the mode of hearing the Commissioners, which being adjusted to the satisfaction of the House, Col. Pickering, Mr. Montgomery and Col. Balliott were introduced.

Col. *Pickering*, at the request of the Speaker, gave a relation of facts and opinions, so far as connected with the present bill; in which he was corroborated by Col. Balliott and Mr. Montgomery.

After which they had leave to retire, and the House adjourned until half past nine to-morrow, A. M.

SATURDAY, November 24, 1787, A. M.

The House met pursuant to adjournment.

Petitions from a number of the inhabitants of the county of Chester were read, praying that certificates for the debts due from this state, may be received in discharge of mortgages given for money received from the loan-office.

Ordered to lie on the table.

A letter from his excellency the governor of the state of Virginia was read, inclosing the following resolutions of the Legislature of that state, viz.

In the House of Delegates of Virginia, Thursday, October 25, 1787.

Resolved unanimously, That the proceedings of the Federal Convention, as transmitted to the General Assembly, through the medium of Congress, be submitted to a Convention of the people, for their full and free investigation and discussion.

Resolved, That every citizen, being a freeholder in this Commonwealth, be eligible to a seat in the Convention, and that the people therefore be not restrained in their choice of delegates by any of those legal or constitutional restrictions, which confine them in their choice of members to the Legislature.

Resolved, That it be recommended to each county to elect two delegates, and to each city, town, or corporation entitled, or who may be entitled by law, to representation in the Legislature, to elect one delegate to said Convention.

Resolved,

Resolved, That the qualifications of electors be the same as those established by law.

Resolved, That the elections for delegates as aforesaid, be held at the usual places appointed by law for holding the elections for delegates to the General Assembly, and that the same be conducted by the officers, who conduct the elections of delegates, and conformably to the rules and regulations thereof.

Resolved, That the elections of delegates be held in the month of March next, on the first day of the court to be held for each county, city, or corporation respectively; and that the persons so chosen, assemble in the state-house, in the city of Richmond, on the fourth Monday in May.

Resolved, That two thousand copies of these resolutions be forthwith printed and distributed by the members of the General Assembly, among their constituents, and that the executive transmit a copy of them to Congress, and to the Legislature and Executive of the respective states.

Test, JOHN BECKLEY, clk. H. D.

A memorial from Col. Francis Mentges was read, stating that in consequence of his appointment as inspector-general of the militia of this Commonwealth, by the Supreme Executive Council, he incurred considerable expence, for which he hath not received any compensation, and requesting such recompence may be granted as will enable him further to pursue the duties of his appointment.

Ordered to lie on the table.

The Committee appointed for the purpose, reported a bill entitled "an act to encrease the duties of excise upon wine and upon rum, brandy and other spirits," which was read the first time, and

Ordered to lie on the table.

The House resumed the consideration of the Wyoming bill, when it was moved by Mr. Lewis to reconsider the clause introduced by Mr. Findley and agreed to by the House on last Thursday afternoon.

Mr. *Wynkoop* had voted in favour of the clause, but since he had heard the examination of the Commissioners, he was convinced of its impropriety, and therefore should agree to reconsider.

Mr. *Lewis* told the gentlemen that the amendment would admit many more claims than the former law, for here are admitted all actual settlers without restriction as to rules and regulations then among them, but the bare occupancy without purchase, and that not confined to the county of Luzerne, was sufficient to entitle a person to 300 acres, whether his claim was for more or less. Moreover, the term legal representatives was a term known in law which excluded purchasers, and this he apprehended was more than gentlemen intended by their restriction.

Mr. *Findley* granted the clause might not be well drawn up, but the intention was well understood by the House; he was sorry it had not been postponed on Thursday evening, when it might have given time

for

for amendment; but he was against reconsidering, as it appeared to him a step toward getting rid of the clause altogether, and he was well convinced something of the kind was necessary: and lest gentlemen might apprehend a further disturbance in that quarter by the operation of his amendment, he now gave notice of his intention to bring in an additional clause, to confirm to each half-share man 200 acres—he understood their numbers were about 250. This land would not cost so much as the troops that they were about to order, but would supercede the necessity of sending any: the intention of the former law was to quiet the settlement, and he thought this extension would be the readiest way to accomplish it.

Mr. *Litzsmors* hoped the House would agree to reconsider, but on putting the question, it appeared to be lost, and as some apprehension was expressed that the members were not aware of the motion, the Speaker stated the question a second time, “will the House agree to reconsider Mr. Findley’s clause?” the yeas and nays being called, are as follow, viz.

YEAS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Salter, Robinson, Ligan, Peters, Wynkoop, Chapman, Foulke, Upp, Ralston, Thomas, Evans, Willing, Whelen, Hubley, Work, M’Lellan, Trexler, Burkhalter, Riffe, Lollar, Richards, Schott.*—27.

NAYS. Messrs. *Moore, Lilley, Clemson, Erle, Hopkins, W. Mitchell, Lilley, Reed, Clinghan, D. Mitchell, Beale, Oliver, J. Heister, G. Heister, Davis, Sands, Piper, White, Findley, Barr, Irvine, M’Donnell, Allison, Wright, Hennenken, Phipps, Gilchrist, M’Lene, M’Calmont, Kittenhouse, Ailly, Clarke, Davison.*—33.

So it was determined in the negative.

Mr. *Findley* now proposed a clause enabling the commissioners and board of property to award 200 acres to every half-share man that is found on the settlement; and this he looked upon as an effectual way to quiet the disturbances.

Mr. *Robinson* objected, because the men not only did not deserve the gratuity of the state, being sent there for the express purpose of opposing the government of the state, but it was also contravening the principle of parsimony, which induced the House to adopt the former clause presented by this gentleman.

Mr. *Peters* begged the House to view the gentleman who had proposed the clause: did he recollect his arguments of last Thursday? could he have forgot, or did he think the House had forgot what had been urged to save the public lands from being given away to those who had no claims? He solicited the gentleman at least to save the appearances of consistency.

Mr. *Smith* contended that this clause was founded upon the same political economy as the former law; and granting lands to these persons would supercede the necessity of sending troops at all into that settlement.

After some further conversation, it was agreed to refer this amendment to a Committee.

The

The bill was again postponed, and the House adjourned to Monday afternoon.

MONDAY, November 26, 1787, A. M.

The House met pursuant to adjournment.

A memorial from William Moore, Esq. read in the late House of Assembly March 27th last, was presented to the chair, read, and

Ordered to lie on the table.

A petition from Thomas Johnston, late a soldier in the army of the United States was read, setting forth that he hath lost the certificate given him, testifying his services during the war, whereby he is precluded from receiving his pay and other dues, and praying this House to grant him relief in the premises; and on motion and by special order, the same was read the second time.

Ordered that it be referred to the Committee appointed November 1, on the petition of Nicholas Kuhl and others.

A petition from Moses Read was read, setting forth that John Piper, Esq. deposited with him a sum of Continental money, for the purpose of engaging cattle for the use of the army of the United States; that he procured twenty five head of cattle, which with his own expences, amounted to about one hundred pounds more than he received; that he has repeatedly applied to the comptroller-general and others for a settlement of his accounts without effect, therefore praying this House to grant him relief in the premises; and on motion and by special order, the same was read the second time:

Ordered that it be referred to the last named Committee to report thereon.

The Committee appointed for the purpose, reported a bill entitled, "a supplement to an act entitled an act to enforce the due collection and payment of taxes within this Commonwealth, which was read the first time, and

Ordered to lie on the table.

The bill entitled "an act to encourage the duties of excise upon wine, and upon rum, brandy, and other spirits, was read the second time.

Ordered that the further consideration thereof be postponed.

Adjourned until three o'clock, P. M.

EODEM DIE, P. M.

The House met pursuant to adjournment.

The bill entitled "an additional supplement to an act entitled an act for the regulation of the militia of the Commonwealth of Pennsylvania," was read the second time.

Ordered, that the further consideration thereof be postponed.

The bill entitled "a supplement to the act entitled an act to enforce the due collection and payment of taxes within this Commonwealth," was read the second time.

Ordered that the further consideration thereof be postponed.

The bill entitled "an act to incorporate the society for propagating the gospel among the Heathen, formed by the members of the Episcopal

pal Church of the United Brethren or *Unitas Fratrum*," was read the second time and debated by paragraphs.

Ordered that it be transcribed, and in the mean time printed for public consideration.

Adjourned until half past nine o'clock to-morrow, A. M.

TUESDAY, November 27, 1787, A. M.

The House met pursuant to adjournment.

A petition from Robert Taylor, read in a former House of Assembly March 28, 1785, was presented to the chair, read and

Ordered to lie on the table.

A petition from divers citizens of Pennsylvania was read, praying an act may be passed, authorizing the officers of the land-office to transfer warrants for lands from one county to another, or to return the monies paid on such warrants where no land is found, and that the Receiver-General may be empowered to transfer the monies overpaid, on the account of one tract of land, to the credit of another, which may happen to be deficient.

Ordered to lie on the table.

The report read November 21, on the petition of a number of the inhabitants of the county of Westmoreland, was read the second time.

Ordered, that the further consideration thereof be postponed.

A motion was made by Mr. Lewis, and seconded by Mr. Clymer, to resume the further consideration of the bill entitled, "a supplement to an act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned"—in order to reconsider the additional clause proposed by Mr. Findley and adopted by the House on Thursday last; and on the question, *will the House agree to the same?* it was determined in the negative.

Adjourned until half past nine o'clock to-morrow, A. M.

WEDNESDAY, November 28, 1787, A. M.

The House met pursuant to adjournment.

A petition from Patrick Sullivan, late a soldier in the second regiment of the line of this state, in the service of the United States, was read, praying he may be entitled to his proportion of the donation lands allotted to the officers and soldiers of the said line.

Ordered to lie on the table.

The Committee, to whom was referred the petition of Thomas Johnston, November 26, made report, which was read, and

Ordered to lie on the table.

The Committee appointed November 19, on the petition of John Penn, jun. and John Penn, made report, which was read, and

Ordered to lie on the table.

The Committee appointed November 15, on the petition of a number of the inhabitants of Wayne and Derry townships, in the county of Cumberland, made report, which was read, and

Ordered to lie on the table.

The

The House having resumed the consideration of the bill entitled, “an additional supplement to the acts for the regulation of the militia of the Commonwealth of Pennsylvania,” it was moved by Mr. Lewis, seconded by Mr. Will, to insert the following paragraph, viz.

And whereas several of the freemen of the city of Philadelphia, with a view to render themselves as useful to their country in the character of militia as possible, have voluntarily associated and formed themselves into a troop of light dragoons, and are desirous of being authorized and established as such by law.

Be it therefore enacted, and it is hereby enacted by the authority aforesaid, That in addition to the troop of militia light dragoons for the said city, formed by volunteer association of the freemen of the said city (including those persons who have already voluntarily associated and formed themselves as aforesaid) to consist of one captain, one first-lieutenant, one second-lieutenant, one cornet, four serjeants, four corporals, one farrier, one trumpeter, and sixty-eight privates—which said additional troop shall be under the like rules and regulations with the other militia troops of light dragoons within this Commonwealth, and the officers of the said corps shall be accordingly and in the like manner commissioned by the Supreme Executive Council.

And on the question, will the House adopt the same, the yeas and nays were called by Mr. McLene and Mr. Beale, and are as follows, viz.

YEAS. Messrs. Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Robinson, jun. Salter, Peters, Wynkoop, Chapman, Foulke, Upp, Ralston, Moore, Thomas, Evans, Willing, Lowry, Hubley, Work, Clemson, Erb, Hopkins, McLellan, Lilly, Clingan, D. Mitchell, J. Heister, G. Heister, Kremer, Trexler, jun. Burkhalter, Piper, White, Irvine, Wright, Gilchrist, McCalmont, Riffe, Lollar, Rittenhouse, Clark, Schott. 43.

NAYS. Messrs. Logan, W. Mitchell, Reed, Beale, Oliver, Davis, Sands, Barr, McDowell, Allison, Phillips, McLene, Milcy, Davison. 14.

So it was determined in the affirmative, and the said bill, together with the several additional clauses having been fully debated by paragraphs.

Ordered that the same be transcribed, and in the mean time printed for public consideration.

The Committee, to whom was referred November 24, the additional clause proposed by Mr. Findley, and the ninth section of the bill entitled “a supplement to an act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned, together with the amendment proposed by Mr. Peters, made report, whereupon the House resumed the consideration of the said bill, and having fully debated the aforesaid clause of Mr. Findley, viz.

And whereas it hath become expedient to quiet in their possessions not only those who were actual settlers upon lands in the county of Luzerne aforesaid, before the time of the decree of the court of Trenton,

ton, but such also as have at any time since seated themselves upon those lands and improved the same, and who are now resident thereupon, should upon their taking the oath of allegiance and renunciation herein before prescribed, and demeaning themselves as good citizens, have the lands upon which they have so improved and become resident, secured to them in like manner.

Therefore be it further enacted by the authority aforesaid, That all and every person actually resident within the said county of Luzerne, at the time of passing this act, who is seated upon lands improved and held by him, and upon which he hath erected a dwelling-house, shall have, and he is hereby declared to have the same confirmed to him, his heirs and assigns forever, subject to the like limitation for making their respective claims, as is hereinafter provided; and the Commissioners who are or may be appointed to receive claims, shall in like manner proceed to receive, enquire into, examine witnesses on oath, and determine upon every such claim, cause the same to be surveyed at the expence of the party within some one of the eighteen towns, and in such manner as the said half-shares have been already surveyed and allotted; provided they do not exceed 200 acres to each lot or half-share, and the return of the same shall be made to the Supreme Executive Council, who shall grant patents therefor, in like manner as is directed by the act to which this is a supplement.

Provided always, That no person so occupying and claiming, shall receive any benefit from this act, unless he take and subscribe the oaths herein before directed, within the time prescribed.

On the question, *will the House adopt the same?* the yeas and nays were called by Mr. Evans and Mr. Findley, and are as follow, viz.

YEAS. Messrs. *Legan, Raifson, Moore, W. Mitchell, Reed, Piper, Findley, Barr, M'Dowall, Allison, Wright, Flumcken, Phillips, Gilchrist, M'Leue, M'Calmont, Miley, Schett.*—18.

NAYS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Robinson, Salter, Peters, Wyunkoop, Chapman, Upp, Foulke, Thomas, Evans, Willing, Whelen, Lawrey, Hubby, Work, Clemson, Erb, Hopkins, M'Lellan, Lilly, Clingan, D. Mitchell, Beale, Oliver, J. Heister, G. Heister, Davis, Sands, Kreemer, Trexler, Burkhalter, White, Irvine, Riffe, Lollar, Rittenhouse, Clark, Davison.*—45.

Adjourned until three o'clock, P. M.

EODEM DIE, P. M.

The House met pursuant to adjournment.

The House resumed the consideration of the bill entitled “an act to vest in Richard Wells and John Clifford the share or portion of the ship Anna, lately forfeited to the state; and on the question, *will the House adopt the same by paragraphs?* it was determined in the negative.

The bill entitled “an act to vest in the Supreme Executive Council of this state, a power to vest or remit either in the whole or in part, any forfeiture or forfeitures accrued to the state under the laws for the regulation of trade, was read the second time; whereupon, on motion of Mr. Peters and Mr. Lewis,

Ordered,

Ordered that the further consideration thereof be postponed.
Adjourned until half past nine o'clock to-morrow.

THURSDAY, November 29, 1787, A. M.

The House met pursuant to adjournment.

Mr. *Findley* had reason to believe that the clause which he had the other day proposed to be added to the Wyoming bill, and which was adopted by the House, might tend to encrease the disposition of the people in that country to oppose to the authority of the State; and moreover he had learned that the word legal representatives, had a restriction which he never intended. On these accounts he wished the clause might be reconsidered, if it was only for the purpose of inserting heirs and assigns in lieu of legal representatives.

Mr. *Clymer*. It is well known that I was an enemy altogether to the introduction of that clause; but since it has passed the House, and I find a disposition to make such restriction, I shall give my consent to have it made as perfect as possible, that so we may not defeat our own purposes.

Mr. *Fitzsimons* would also agree to the reconsideration on the same principles, but would be much better pleased to have the clause struck out altogether.

Mr. *Lewis* thought that arguments sufficient had already been urged to induce the House to make the alteration now intended; for his part he had said all that occurred to him to impress the House with the impropriety of the whole clause, as well as the particular part now alluded to; but as they had decided in favour of it, he had very little expectation that they would be now induced to rescind their former resolution.

The question was now put, will the House agree to take up the Wyoming bill, in order to reconsider Mr. Findley's clause? when it was determined in the negative.

Mr. *McLene* now proposed the following resolution, and was seconded by Mr. Peters:

Resolved, That the Supreme Executive Council be and they are hereby authorized and required to direct the secretary of the land-office to issue a grant or grants to such Pennsylvania claimant who hath or may be divested of his land in the county of Luzerne by the operation of the Wyoming act—which grant shall give such claimant or claimants the right to take up and settle upon a quantity of land in any part of the residue of the donation lands not already appropriated; provided the quantity of land so granted do not exceed the quantity of land which such person or persons have been or may be divested of as aforesaid; which land so granted and accepted of, shall be a compensation to such person or persons, either in whole or in part, as shall hereafter be determined.

Wherefore the following desultory conversation arose:

Mr. *Clymer* thought the persons alluded to, could derive no immediate advantage from the resolution, and that it would be better to

grant the property of the state by law agreeably to the constitution.

Mr. *Peters*'s humanity was what dictated this measure to him : he had learned then where several poor persons disposed of all their property by the late law—and mere compassion to our citizens, whose rights had been transferred to the people of Connecticut, was his sole inducement to support the measure.

Mr. *Fitzsimons* deemed it imprudent to make any grant by resolution—it ought to be done by law.

Mr. *McLene* had hesitated in offering this resolution, because he knew there was an impropriety in giving lands by resolution ; but humanity to the people induced him to propose this mode, and there was also a precedent where lands were granted to certain persons on a somewhat similar occasion by resolution. If the House was disposed to extend relief to these persons, he thought they were justifiable.

Mr. *Lewis* did not know precisely what was the practice of the House on such occasions, but he was of opinion the poor persons alluded to, well deserved all the benevolence and indulgence of the Legislature.

Mr. *Findley* would be willing to do every thing for these people, and he knew that it was necessary to do it early, because if the House are disposed to make them grants, the people ought to know it, that they might go and reconnoitre the country during the winter season, that they might be enabled to move in the spring.

Mr. *Robinson*, though he thought these people deserving the attention of the House, yet he was opposed to giving away lands by a resolution, because it was unconstitutional, and the late Council of Censors had reprobated it. He believed the precedent alluded to by the member from Franklin, had taken place before the meeting of that body, but since that, nothing of the kind had been attempted.

Mr. *Logan* opposed the resolution upon similar principles, and thought as the House meant to meet again at an early period, this business might be done without an infringement of the constitution, and time enough to accommodate the poor persons alluded to.

Mr. *Clymer* did not know who the people were that are said to be dispossessed of their land ; no decision had yet been made by the commissioners, and consequently no Pennsylvania claimant who was in possession, had yet been turned out ; when that was the case, these people have it in their power, under the law passed last March, to accept a compensation in lands where they please, so that they may go this fall and see where to remove to, if they are in a great degree certain that they must lose their present settlement ; commissioners and land-officers are already enabled to award them a compensation of that kind.

Mr. *Robinson* was also clear that the law of March provided all the remedy that was intended by this resolution.

Mr. *Peters* expressed a wish for altering the resolution so as to make the law of more immediate effect, as he was pretty certain many of the people in that country were without place to shelter themselves.

On the question, will the House agree to the resolution? the yeas and nays were called by Mr. M'Lene and Mr. Peters, and are as follows, viz.

YEAS. Messrs. *Peters, Moore, Whelen, W. Mitchell, J. Heister, Davis, Kreemer, Piper, White, Findley, Barr, Irvine, M'Donwell, Allison, Wright, Phillips, M'Lene, M'Calmont, Rittenhouse, Schott.*—20.

NAYS. Messrs. *Clymer, Fitzsimons, Hiltzheimer, Lewis, Will, Robinson, Salter, Logan, Wynkoop, Foulke, Chapman, Upp, Ralston, Thomas, Evans, Willing, Lowrey, Hubley, Work, Clemson, Erb, Hopkins, M'Lellan, Lilly, Reed, Clingan, D. Mitchell, Beale, Oliver, G. Heister, Sands, Trexler, Burkhalter, Flenneken, Gilchrist, Lollar, Clarke, Davison.*—39.

So it was determined in the negative.

A motion was then made by Mr. M'Lene and Mr. M'Calmont, in the words following, viz.

Resolved, That it is the opinion of this House, that all proceedings of the Commissioners appointed to carry into effect "the act entitled an act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed in the county of Luzerne, and for other purposes therein mentioned," shall cease and determine, until this House shall take further order therein.

The previous question being then called by Mr. Robinson, Mr. Thomas and some others, viz. *shall the main question be now put?*

It was carried in the negative.

Mr. Lollar appointed to collect the fines from the members absent, presented to the chair a receipt from the treasurer of the Pennsylvania Hospital for six-pounds twelve shillings and sixpence, being the amount of fines by him collected this present session.

The Committee appointed November 20, on the petition of a number of the inhabitants of the counties of Westmoreland, Washington, and Fayettee, made report, which was read, and

Ordered to lie on the table.

The report of the Committee read yesterday on the petition of Thomas Johnston, was read the second time, as follows, viz.

The Committee of claims, to whom was referred the petition of Thomas Johnston, a negro, formerly a soldier in the American army, have examined his claim, and are clearly of opinion, that the House of Assembly cannot grant the relief he prays for.

Therefore all your Committee can do, is to recommend him as a proper object of charity, on account of his poverty and old age.

The report of the Committee read November 23, on the petition of Mary Bioren, was read the second time, whereupon,

Resolved, That Mary Bioren have leave to withdraw her petition.

The report of the Committee read yesterday on the petition of John Penn, jun. and John Penn, Esq. was read the second time, whereupon

Resolved, That John Penn, jun. and John Penn, Esq. have leave to bring in a bill to be passed into a law, for the purpose of confirming

ing to them their Tenth or Manors, and private estates, and for explaining an act entitled "an act for vesting the estates of the late proprietaries of Pennsylvania in this Commonwealth," so far as concerns the said Tenth or Manors and private estates.

The Committee of accounts made report, which was read, and on motion and by special order, the same was read the second time, and adopted as follows, viz.

The Committee of accounts beg leave to report,

That there is due to Hall and Sellers, per account for printing the minutes of the eleventh General Assembly, 62 half-sheets and other printing, per order of the Legislature, 153*l.* 8/9.

To Nicholas Weaver, for fundries, during his being in office as serjeant at arms, 3*l.* 5/8.

To James Pearson, for fundry repairs made on the state-house, per order of the General Assembly, 38*l.* 12/8.

To William Spotswood, for the Pennsylvania Herald, from September 1786 to September 1787, 10*l.* 10/0.

To Michael Billmeyer, for printing the German minutes of the last session of the General Assembly and printing the Federal Constitution, 5*l.*

Thomas Bradford, for printing the laws and publishing the bills for consideration, 185*l.* 13/0.

To Francis Bailey, for 6 copies of the Freeman's Journal, from January, 1787, until the end of the year, 6*l.*

The Committee therefore offer the following resolutions:

Resolved, that the Speaker draw orders on the state treasurer, in favour of Hall and Sellers, for 150 pounds on account.

In favour of Nicholas Weaver for 3*l.* 5/8 in full of his account.

In favour of James Pearson for 38 pounds 12/8 in full of his account.

In favour of William Spotswood for 10 pounds 10/0, in full of his account.

In favour of Michael Billmeyer, for 50 pounds on account.

In favour of Thomas Bradford, for 158 pounds 13/0 in full.

In favour of Francis Bailey for 6 pounds, in full of his account.

In favour of Peter Z. Lloyd for 59 pounds, for his services as clerk of this House, including 20 days for completing the business.

In favour of Jacob Shallus for fifty nine pounds, for his services as assistant clerk to this House, including 20 days allowance for completing the business.

In favour of James Martin for 24 pounds 10 shillings, including 10 days allowance for his service as serjeant at arms to the General Assembly.

In favour of Joseph Fry for 24 pounds 10 shillings, including 10 days allowance for his service as door keeper to this House.

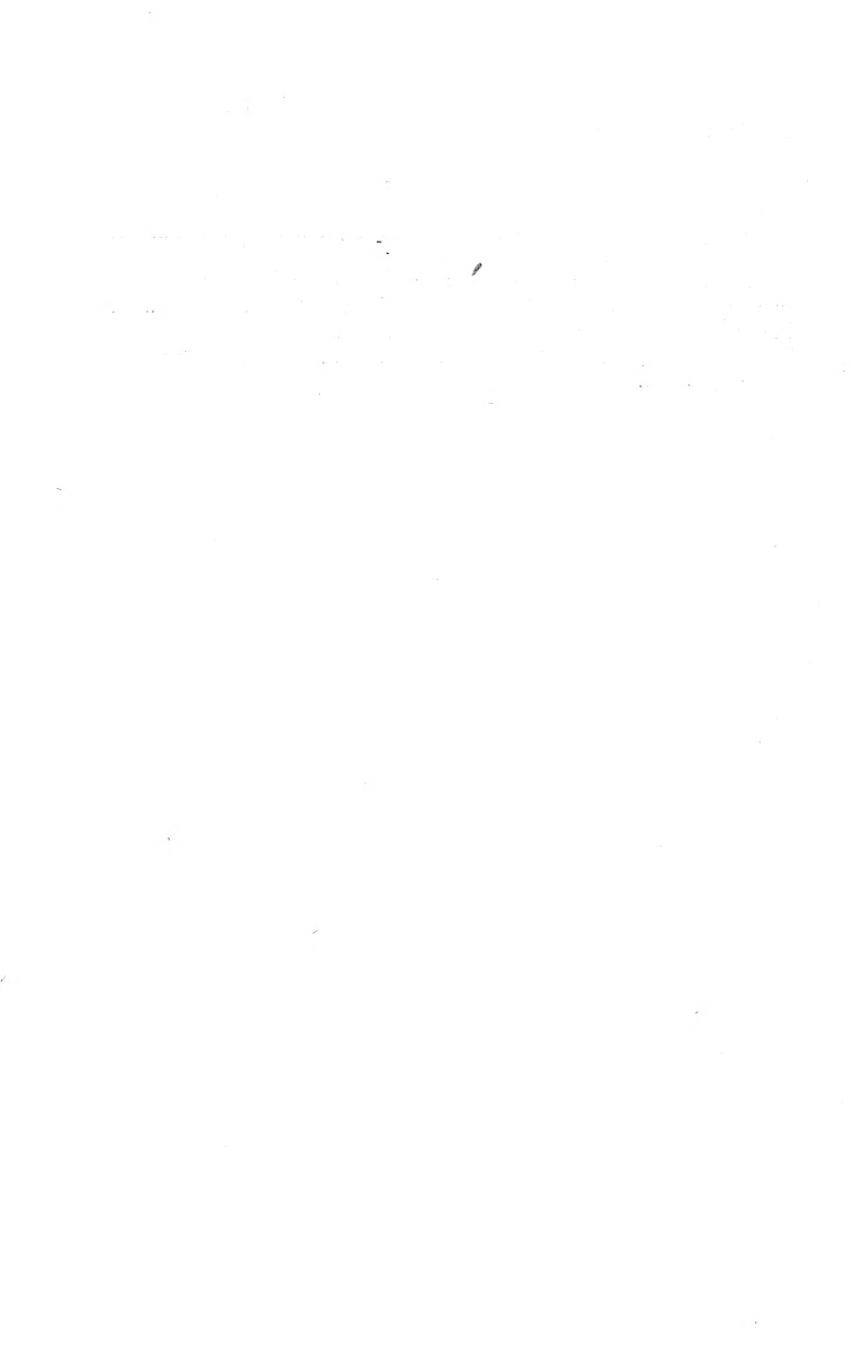
In favour of Peter Z. Lloyd, clerk of the General Assembly, for the sum of 75 pounds, to enable him to pay the contingent expences of the House, for which he is to account with the Comptroller-General.

The

The Committee appointed to affix the seal to the laws, reported that they have affixed the seal to the following laws, viz.

1. An act to provide for the wages of the members of the State Convention, and to defray the expences of holding the same.
2. An act for furnishing the quota of troops required by Congress for the protection of the Western Frontiers, and for other purposes therein mentioned.
3. An act to alter and amend an act entitled an for erecting and opening a loan-office for the sum of fifty thousand pounds—which laws were as usual deposited in the rolls office.

Adjourned until Tuesday the 29th day of February next, at 3 o'clock, P. M.



E R R A T A.

Page 6, line 29, for *and* the judges, read *one* of the judges.

Page 57, after the 6th line, the following speech was accidentally omitted :

Mr. *Lollar* acknowledged it was a matter of such nicety, that he scarcely knew what to say. He was convinced that requiring so large a number might leave it in the power of a few to put the state to a great expence by keeping the rest waiting for them, but yet it was known that business of this importance should be conducted by a respectable majority of the delegates. In case the members were generally met, I would entertain no objection that the business should be sanctioned with the presence of two-thirds of the members ; but at the same time I expect when they are met, that the nature of the business is such, and so well understood by them, that they will not undertake to transact it, without both sufficient number and sufficient time ; and I cannot think they would go into the consideration without having the state fully represented ; and I must confess that I have sufficient confidence in the gentlemen that are appointed by the freemen of the state, to believe they will do only what is right, without being directed by us ; they will have too much respect for their own deliberations, to make them appear in a light manner to their constituents ; they cannot wish to do what the motion is intended to prevent.

Page 93 line 25 insert AtWayne 29



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